

STATE OF MICHIGAN  
IN THE SUPREME COURT

APPEAL FROM THE COURT OF APPEALS  
(Meter, P.J., O'Brien and Swartzle, JJ.)

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-vs-

CLEOPHAS ANDREW BROWN,

Defendant-Appellant.

Supreme Court

No. 160661

Court of Appeals

No. 348079

Circuit Court

No. 2018-266476-FH

---

**PLAINTIFF-APPELLEE'S APPENDIX**

JESSICA R. COOPER  
PROSECUTING ATTORNEY  
COUNTY OF OAKLAND

THOMAS R. GRDEN  
CHIEF, APPELLATE DIVISION

By: Louis F. Meizlish (P75168)  
Assistant Prosecuting Attorney  
West Wing — Building 14E  
1200 N. Telegraph Road  
Pontiac, MI 48341  
Phone: 248-858-0656  
Fax: 248-975-4265  
Email: [meizlishl@oakgov.com](mailto:meizlishl@oakgov.com)

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## **APPENDIX A**



**Lisa Brown**

**OAKLAND COUNTY CLERK/REGISTER OF DEEDS**

[www.oakgov.com/clerkrod](http://www.oakgov.com/clerkrod)

Vital Records

January 8, 2019

I hereby certify that a search of our records at the Oakland County Gun Board shows the following Concealed Pistol License record for **Cleophus Andrew Brown, DOB** [REDACTED]

**CPL #683528G; Effective Dates: 08/06/2013 Original Expiration - 11/27/2017**

- On 9/12/2013 Suspension letter sent to Mr. Brown due to Operating While Intoxicated with High BAC charge pending. Gun Board Hearing was set up for November 19, 2013.
- On 10/29/2014, Mr. Brown called in to request his CPL to be reinstated as his original case #134951SD was dismissed without prejudice. We requested a Register of Action for the case at 51<sup>st</sup> District Court, which they faxed over to our office on 11/5/13, also stating that Mr. Brown was re-charged for OWI with High BAC, new case #144309SD.
- Gun Board denied his reinstatement. Mr. Brown waived his Gun Board Hearing scheduled for 11/19/2013 (he is not required to attend hearing).
- After the hearing on 11/19/2013, we mailed Mr. Brown a follow up Suspension letter signed by the members of the Gun Board confirming his suspension.
- He was convicted of OWI on 5/20/2015, his CPL was revoked on 6/6/2015. A first OWI conviction is a 3-year disqualification for a CPL.

Attached is documentation, including his application. If you have any other questions, please contact me at 248-858-0521.

Kathy Craig  
Office of the Oakland County Clerk  
Keeper of the Records



Administrative Offices  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0560  
[clerk@oakgov.com](mailto:clerk@oakgov.com)

County Clerk's Office  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0581  
[clerklegal@oakgov.com](mailto:clerklegal@oakgov.com)

Election Division  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0564  
[elections@oakgov.com](mailto:elections@oakgov.com)

Register of Deeds Office  
1200 N Telegraph Rd-Dept 480  
Pontiac Mi 48341-0480  
(248) 858-0605  
[deeds@oakgov.com](mailto:deeds@oakgov.com)





## CONCEALED PISTOL LICENSE APPLICATION

<b>I. General Information:</b> Type or clearly print answers to all fields.					
1. Full Legal Name (First, Middle, Last, Suffix) Cleophas Andrew Brown				2. Date of Birth [REDACTED]	
3. Previous Names or Alias (If applicable)			4. Daytime Telephone Number [REDACTED]		
5. Social Security Number (Voluntary) [REDACTED]			6. Driver License Number or State Identification Number [REDACTED]		
7. a. Residential Address [REDACTED]			b. Residential City [REDACTED]		c. Residential Zip [REDACTED]
8. a. Mailing Address (If different)			b. Mailing City		c. Mailing Zip
9. a. Race African American	b. Gender Male	c. Height 6'	d. Weight 200	e. Hair Color Black	f. Eye Color Brown
10. Name of Police Department in the City, Village, or Township of Residence (If applicable) [REDACTED]			11. County of Residence Oakland		
12. Are you a U.S. citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		13. a. Are you a Legal Immigrant Alien? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		b. Indicate A or I-94 Number [REDACTED]	
c. Place of Birth Eutaw, AL					
<b>II. Type of License:</b> Check the box next to the type of license that applies to this application.					
<input checked="" type="checkbox"/> <b>New</b> - Applying for a new license.					
<input type="checkbox"/> <b>Temporary</b> - If applying for a temporary license, attach a statement of facts supporting a temporary license.					
<input type="checkbox"/> <b>Renewal</b> - If renewing an existing license, complete the renewal information and certification below.					
1. Renewal Information					
a. Expiration Date		b. Issue Date		c. County of Issuance	
d. Concealed Pistol License Number					
2. Renewal Certification					
I certify that I have completed at least 3 hours of review of the required training and have had at least 1 hour of firing range time in the last 6 months preceding this application.					
Signature					Date
<b>III. Survey:</b> Answer "yes" or "no" to the following questions.					
1. Have you ever been convicted of a felony in this state or elsewhere?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Do you have a felony charge pending in this state or elsewhere?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Have you been convicted of any misdemeanor listed on the Concealed Pistol License Guide in the 8 years preceding this application? If yes, please explain on the reverse side of this application.					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Have you ever been convicted of a misdemeanor crime of domestic violence?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
5. Do you have a personal protection order against you or been released by a judge or a district court magistrate subject to protective conditions?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6. Have you ever been found guilty but mentally ill of any crime or offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
7. Have you ever been subject to an order of involuntary commitment in an inpatient or outpatient setting due to a mental illness?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8. Do you have a diagnosed mental illness, regardless of whether you are receiving treatment for that illness?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
9. Are you under a court order of legal incapacity in this state or elsewhere?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
10. Have you ever been dishonorably discharged from the United States Armed Forces?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
11. Have you completed the training required for a new Concealed Pistol License (original documentation must be submitted with the application), OR have you certified above that you have completed the required review and firing range time for a renewal of your license?					<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
12. Are you a retired police officer or retired law enforcement officer?					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
13. Are you exempt from pistol-free zones pursuant to MCL 28.425o? If yes, proof may be required to be presented to the concealed weapon licensing board. (See back for qualifying list.)					<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>IV. References:</b> Provide the names, addresses, and telephone numbers of two references.					
1. Reference One					
a. Name Edna Brown			b. Telephone Number [REDACTED]		
c. Residential Address [REDACTED]			d. City [REDACTED]		e. Zip [REDACTED]
2. Reference Two					
a. Name David Brown			b. Telephone Number [REDACTED]		
c. Residential Address [REDACTED]			d. City [REDACTED]		e. Zip [REDACTED]
<b>V. Agreement and Certification:</b> Read the following statements. By signing below, you acknowledge they are true.					
<ul style="list-style-type: none"> <li>I have read the information provided on carrying a concealed pistol and obtaining a Michigan Concealed Pistol License and I meet all of the criteria for a Concealed Pistol License under Public Act 372 of 1927, as amended.</li> <li>I give authority to the concealed weapon licensing board to access any record, including medical and mental health records, pertaining to my qualifications to receive a Concealed Pistol License. I understand I may request that the licensing board review my medical and mental health records in a closed session, and that I and my representative may be present at that closed session.</li> <li>I understand this application is executed under oath and swear or affirm under penalty of law that the above answers are true and correct to the best of my knowledge. I understand that intentionally making a false statement on this application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500, or both.</li> <li>I have been provided with a copy of the compilation of the Firearms Laws of Michigan created by the Legislative Service Bureau.</li> </ul>					
Applicant's Signature (Do not sign until instructed by the county clerk or his or her representative) Cleophas Brown					Date JUN 21 2013
Witness (County clerk or representative) [REDACTED]					Date JUN 21 2013

Return the completed unsigned form, a passport-quality photograph, and documentation of required training to the county clerk's office.

## Pistol Safety Training Course Certificate

All applicants for a license to carry a concealed pistol must have knowledge and must have had training in the safe use and handling of a pistol by the successful completion of a pistol training course or class. MCL 28.425b (7) (c). **This course Complies with Section 5j of 1927 PA 372.**

This is to certify that **Cleophas A brown** has successfully completed a pistol safety training course certified by this state or a national or state firearms training organization. The pistol safety training course complied with the requirements of the law, MCL 28.425j. The instructor of the course was certified by this state or a national organization to teach the 8-hour pistol safety training course.

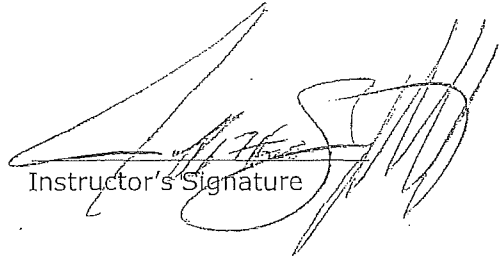
The program complied with the requirements of the law by providing instruction in, but not limited to, all of the following:

- The safe storage, use, and handling of a pistol including safe storage, use and handling to protect a child,
- Ammunition knowledge, and the fundamentals of pistol shooting,
- Pistol shooting position,
- Firearms and the law, including civil liability issues,
- Avoiding criminal attack and controlling a violent confrontation,
- All laws that apply to carrying a concealed pistol in this state,
- At least 8 hours of instruction, including 3 hours of firing range time.

Date Course Completed: June 15, 2013

(Must be within 1 year of applying for license)

Jeffery T Swyrtek  
Instructor's Name (Printed)

  
Instructor's Signature

Firearms Instructor 101000136915229  
Title

Advanced Ranges Inc.  
1096 N. Center Rd.  
Burton, MI 48509



OAKLAND COUNTY CLERK  
1200 N TELEGRAPH RD BLDG 12E  
PO BOX 1100, MI 48341-1032  
248-650-0536

Merchant ID: 8006394488  
Term ID: 000215000980039440801

Sale

## OAKLAND COUNTY CLERK

XXXXXXXXXXXX4011  
VISA

Entry Method: Swiped

Total:

\$ 115.00

06/21/13

16:20:13

Inv #: 000111

Appr Code: 052014

Approved: Online

Customer Copy

THANK YOU!

20. Mediation (FOC) 150.00  
21. Investigation (FOC) 150.00  
22. Filiation Notice 150.00  
23. Jury Fee 15.00  
24. Trial Fee 15.00  
25a. Appeal-Court of Appeals 15.00  
25b. Appeal-Supreme Court 10.00  
26a. Domestic Order-Support 30.00  
26b. Domestic Order-Custody 40.00  
27. Admission to State Bar 40.00  
28a. Reinstatement 25.00  
28b. Reinstatement License (FOC) 30.00  
29. Trust Account 45.00  
30. Motion 20.00  
31. Passport Fees 25.00  
32. Photocopies  
33. Certified Copies-Legal  
34. Certified Copies-Vitals  
35. Certified Copies-Assumed Names  
36. Court Costs  
37. Criminal Bonds

38. Construction Lien (under 1yr) 25.00  
39. Construction Lien (over 1yr) 10.00  
40. Assumed Names 10.00  
41. Assumed Names-Out of State 2.00  
42. Co-Partnership 10.00  
43. Co-Partnership-Amended 10.00  
44. Discontinuance of DBA 10.00  
45. Discontinuance of Co-Partnership 10.00  
46. Notary Commission 10.00  
47. Notary Certificates  
48. Marriage License 20.00  
49. Marriage License-Out of State 30.00  
50. Waiver 5.00  
51. Concealed Pistol License 105.00  
52. Concealed Pistol Replacement 10.00  
53. Voter Registration (listing/labels)  
54. Elections Late Filing  
55. Elections Qualified Voter File  
56. Ele  
57. Ele  
58. Ele  
59. Mi  
60. Bir  
61. Bir  
62. Re  
63. Hc  
69. Ve  
72. Passport Photos 10.00  
73. CPL Photos 10.00  
74. Bond Forfeiture-Surety

Case Number

Brown, Cleophus

Clerk

DT

Total Fee(s) \$

115-

MICHIGAN

DRIVER LICENSE



ISS [redacted] XP [redacted] 112755  
DOB [redacted]  
CLEOPHUS AND JEN BROWN  
Sex M Hgt 600 Eyes BRO  
Lic Type D End NONE  
Restrictions NONE




Cleophus Brown

ID: 0040501075109

Rev 01-21-2013

RI-13 (03/12)

## Michigan Concealed Pistol License

	LICENSE # 683528G		<input type="checkbox"/> Duplicate	
	<input type="checkbox"/> Exempt from pistol free zones, MCL 28.425c(4)			
	Last Name: BROWN			
	First: CLEOPHAS			
	Middle: ANDREW			
	DOB	SEX	HEIGHT	EYES
	M	6' 0"	BROWN	
CLERK'S SIGNATURE		<i>John Brown</i>		
OAKLAND COUNTY				
EFFECTIVE DATE		EXPIRATION DATE		
08/06/2013				

Authority: Act 372 of 1927, as amended. Completion: Voluntary. Penalty: No license.

From:

09/12/2013 14:40 #118 P.001/006

From: CLERKS OFFICE

2488580416

09/12/2013 14:31 #065 P.001/001

Phone: 248-858-0521  
Fax: 248-858-0416  
E-mail: craigk@oakgov.com

OAKLAND COUNTY  
CLERK - GUN BOARD  
1200 N. Telegraph Dept. 413  
Pontiac, MI 48348

**Fax**

**FROM:**  
**TO:** RECORDS - OCSD  
**FROM:** KATHY CRAIG  
**DATE:** September 12, 2013  
**PHONE:**  
**PAGES:** COVER ONLY  
**RE:** POLICE REPORT  
**CC:**  
☒ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

**Comments:**

Please fax or email the police report on: CLEOPHAS ANDREW BROWN Arrested on 08/31/2013 OCA# 133985.

This individual is a Concealed Pistol License holder or applicant. We need this information to determine eligibility.

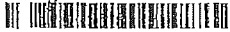
THANK YOU


KATHY CRAIG

From:

09/12/2013 14:40 #118 P.002/006

C R No: 130133985



OAKLAND COUNTY SHERIFF OFFICE	
1200 N TELEGRAPH RD PONTIAC MI 48341 248-858-5000	
	
Case Report	
Administrative Details:	
CR No <b>130133985</b>	Subject <b>8041 - Operating Under the Influence of Alcohol / Liquor OWI [54002]</b>
Report Date/Time <b>08/30/2013 22:54</b>	Occurrence Date/Time <b>08/30/2013 22:54</b>
Location <b>WALTON BLVD&amp;CLINTONVILLE RD</b>	Call Source <b>FIELD INITIATED</b>
Dispatched Offense <b>8041 OPERATING WHILE</b>	Verified Offense <b>8041 Operating Under the Influence of Alcohol / Liquor OWI</b>
County <b>63 - Oakland</b>	City/Twp/Village <b>21 - Waterford Twp</b>
Division <b>AE - Alcohol Enforcement</b>	
Action Requested:	
<input type="checkbox"/> Arrest warrant	<input type="checkbox"/> Review only
<input type="checkbox"/> Search warrant	<input type="checkbox"/> Forfeiture
<input type="checkbox"/> Juvenile petition	<input type="checkbox"/> Other

RECEIVED by MSC 8/27/2020 10:49:36 AM



From:

09/12/2013 14:41 #118 P.003/006

CR No: 130133985



Offenses:		
<b>8041 - Operating Under the Influence of Alcohol / Liquor OWI [OSSANFORDT (00948)]</b>		
IBR Code / IBR Group	Offense File Class	
<b>90D - Driving Under the Influence / B</b>	<b>54002 - OPERATING UNDER THE INFLUENCE OF LIQUOR OR DRUGS</b>	
Crime Against	Location Type	Offense Completed
<b>SO</b>	<b>13 - Highway/Road/Alley/Sidewalk</b>	<b>Completed</b>
Domestic Violence	Hate/Bias	
<b>No</b>	<b>00 - None (No Bias)</b>	
Using		
<b>A-Alcohol: Yes C-Computer Equipment: No D-Drugs/Narcotics: No</b>		

People:							
<b>REP FROM MSP LAB REFERENCE BLOOD RESULTS. (O-OTHER) (E-EVIDENCE TECHNICIAN)</b>							
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms	
	<b>CH</b>	<b>REP FROM MSP LAB REFERENCE BLOOD RESULTS.</b>					
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		<b>UNKNOWN</b>					
Street Address			Apt #	County	Country	Home Phone	Work Phone
<b>7320 N CANAL RD.</b>					<b>USA</b>		
City		State	Zip	Cell Phone	Email		
<b>LANSING</b>		<b>MI</b>	<b>48913</b>				
Notes							
<b>REP FROM MSP LAB.</b>							

ZYLINSKI, I (O-OTHER) (MP-MEDICAL PERSONNEL) [OSSANFORDT (00948)]							
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms	
	<b>MD</b>	<b>ZYLINSKI</b>	<b>I</b>			<b>DOCTOR</b>	
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		<b>UNKNOWN</b>					
Street Address			Apt #	County	Country	Home Phone	Work Phone
<b>50 N PERRY</b>				<b>OAKLAND</b>	<b>USA</b>		
City		State	Zip	Cell Phone	Email		
<b>Pontiac</b>		<b>MI</b>	<b>48342</b>				
Notes							
<b>DCOTOR WHO CONDUCTED BLOOD DRAW.</b>							

RYMARZ, ERIC (O-OTHER) (L-POLICE OFFICER) [OSSANFORDT (00948)]							
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms	
	<b>OF</b>	<b>Rymarz</b>	<b>Eric</b>				
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship	
		<b>UNKNOWN</b>					
Street Address			Apt #	County	Country	Home Phone	Work Phone
<b>1200 N Telegraph Rd</b>				<b>OAKLAND</b>	<b>USA</b>		
City		State	Zip	Cell Phone	Email		
<b>Pontiac</b>		<b>MI</b>	<b>48341</b>				
Phone/Email							
Type				Description			
<b>BU-Business Phone #1</b>				<b>248-858-5000</b>			
Notes							
<b>DEPUTY WHO WAS PRESENT DURING BLOOD DRAW.</b>							



From:

09/12/2013 14:42 #118 P.004/006

CR No: 130133985



<b>DAVID, M (O-OTHER) (L-POLICE OFFICER) (OSSANFORDT (00948))</b>									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms			
	OF	David	M						
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
1200 N Telegraph Rd			OAKLAND	USA					
City		State	Zip	Cell Phone	Email				
Pontiac		MI	48341						
Phone/Email									
Type					Description				
BU-Business Phone #1					248-858-5000				
Notes									
DEPUTY WHO WAS PRESENT AT BLOOD DRAW.									

<b>MARZBAN, S (O-OTHER) (L-POLICE OFFICER) (OSSANFORDT (00948))</b>									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms			
	OF	Marzban	S			SGT.			
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
1200 N Telegraph Rd			OAKLAND	USA					
City		State	Zip	Cell Phone	Email				
Pontiac		MI	48341						
Phone/Email									
Type					Description				
BU-Business Phone #1					248-858-5000				
Notes									
SGT PRESENT DURING BLOOD DRAW.									

<b>SANFORD, T (O-OTHER) (L-POLICE OFFICER) (OSSANFORDT (00948))</b>									
PE:	W.Type:	Last Name	First Name	Middle Name	Suffix	Mr/Mrs/Ms			
	OC	Sanford	T						
Aliases			Driver License#	DL State	DL Country	Personal ID#			
				USA					
DOB (Age)	Sex	Race	Ethnicity	Birth City & State	Birth Country	Country of Citizenship			
		UNKNOWN							
Street Address		Apt #	County	Country	Home Phone	Work Phone			
1200 N Telegraph Rd			OAKLAND	USA					
City		State	Zip	Cell Phone	Email				
Pontiac		MI	48341						
Phone/Email									
Type					Description				
BU-Business Phone #1					248-858-5000				
Notes									
DEPUTY WHO STOPPED VEHICLE FOR DRIVING WITH NO HEADLIGHTS AND RUNNING A RED LIGHT.									

Narrative:									
CR No: 130133985-001 Written By: OSSANFORDT (00948) Date: 09/10/2013 02:06 PM									

From:

09/12/2013 14:43 #118 P.005/006

CNR No: 130133985



SOURCE: FOP on Walton and Clintonville Rd. in Waterford .

INFORMATION: While E/B on Walton approaching Silver Lake Rd. I observed a full size Hummer stopped at the light waiting to turn onto Walton. The vehicle did not have its headlights on. It did have its fog lights on but not its head lights. I turned around and got behind that vehicle on Walton approaching Clintonville Rd. I began to run the license plate in LEIN and I then observed the vehicle run the red light at Walton and Clintonville. I activated my overhead lights and stopped that vehicle. MI plate [REDACTED] made contact with the driver B/M identified as Cleophas Brown. There was also a B/F seated in the front passenger seat. I could smell a strong odor of intoxicants coming from inside the vehicle. Brown's eyes were very glassy and he seemed to lack mental clarity as we spoke. He had a hard time focusing or answering the question I was asking him. I asked him where he was coming from and he stated that he and his wife were headed home from Belle Isle in Detroit. I advised him that I was stopping him for driving without his headlights on. Brown stated that his headlights were on because the selector knob was on automatic. I reached into the vehicle and turned the knob to activate the head lights. I had to do this several times before Brown realized that his headlights were in fact not operational while he was driving. Brown admitted to drinking earlier that evening. The odor of intoxicants continued as to come from the vehicle as we spoke.

FIELD SOBRIETY TASKS: I asked Brown if he could recite the alphabet from C to X. Brown started but was unable to finish and kept asking his wife. His wife helped him complete the and recite the letters when he could not. I then asked him if he could count back ward from 100 to 81. Once again Brown was not able to complete the task. Brown consented to a PBT and registered a .208. His wife was consented to a PBT. ( To see if she could drive the vehicle home. ) She registered a .17 on a PBT.

ACTION TAKEN: Brown was placed under arrest for OWI and transported to McLaren Hospital in Pontiac. Dep David arrived on scene during my investigation and informed me that in the rear seat of the vehicle was a red and white cooler with what appeared to be vodka and orange juice. Dep David gave Mrs. Brown a ride home to their residence. Mr. Brown and I went to the hospital where Brown was read his chemical test rights. Brown consented to a blood test and became very verbally aggressive toward myself and stated that I had no reason to stop him in the first place. He began to argue with me about the fact that he ran the red light on Walton. Sgt Marzban, Dep. David, Dep Rymarz were present during the blood draw process. Dr I Zylinski removed two vials of blood from Brown and they were placed in the MSP kit and sealed. Brown was then transported to the jail where he was lodged for OWI.

014b - People's Exhibit 2

From:

09/12/2013 14:43 #118 P.006/006

CR No: 130133985



STATUS: Open pending blood results.

RECEIVED by MSC 8/27/2020 10:49:36 AM



## OAKLAND COUNTY CONCEALED PISTOL LICENSING BOARD

MICHAEL J. BOUCHARD

Sheriff Office – Chair

COL. KRISTE KIBBEY ETUE

Department of State Police – Member

LISA BROWN

Oakland County Clerk

MARK CORTIS

MEMBER



OAKLAND COUNTY COURTHOUSE

CLERKS OFFICE – GUNBOARD

1200 N TELEGRAPH RD

PONTIAC MI 48341-0413

Phone: 248-858-0521 or 248-452-2233

Fax: 248-858-0416

September 12, 2013

CLEOPHAS BROWN

You are hereby requested to appear before the Oakland County Concealed Pistol Licensing Board on Tuesday, NOV. 19, 2013 at 08:45 A.M. for an INFORMAL HEARING regarding your permit to carry a concealed pistol.

Also, please be advised that Concealed Pistol License #683528G is SUSPENDED for OPERATING WHILE INTOXICATED CHARGES PENDING AT 51<sup>ST</sup> DC.

PLEASE CALL TO CONFIRM OR WAIVE YOUR APPOINTMENT. There are two options:

- 1) Waive your right to the hearing and not have to appear. Then you can call us after you have gone to court on your case. YOU MUST MAIL YOUR CPL TO THE ADDRESS ABOVE. According to MCL 28.425b it is a 93-day misdemeanor for a CPL holder to fail to return their CPL to the licensing board when the board has suspended or revoked it.
- 2) Come to the hearing and bring in COURT documents to show the disposition of the case. BRING YOUR PERMIT WITH YOU TO THE MEETING IF YOU HAVE IT.

The meeting of the Board will be down by the auditorium in a conference room. LOOK FOR THE SIGN IN SHEET; Oakland County Service Center, 1200 N. Telegraph, Pontiac, Michigan.

KATHY

Oakland County Clerk

Concealed Pistol Licensing Board

Nov. 5. 2014 12:37PM

No. 6654 P. 1

## State of Michigan

51<sup>st</sup> DISTRICT COURT5100 CIVIC CENTER DRIVE  
WATERFORD, MICHIGANHON. RICHARD D. KUHN, JR.  
CHIEF JUDGEHON. JODI DEBBRECHT SWITALSKI  
CHIEF JUDGE PRO TEMPOREJENNIFER E. THOM  
COURT ADMINISTRATORDENNIS A. WYNN  
DEPUTY COURT ADMINISTRATORFAX TRANSMITTAL  
COVER SHEET

TO: KATHY CRAIG

FROM: ANDREA FLETCHER

RE: CLEOPHAS ANDREW BROOK

DATE: 11-5-14

FAX #: 248-858-0416

NUMBER OF PAGES TRANSMITTED (INCLUDING COVER SHEET): 8

MESSAGE: JUST TO LET YOU KNOW, MR. BROOK  
WAS RE-CHARGED UNDER CASE #: 144309SD  
FOR HIGH BAC (OWI) SAME OFFENSE DATE OF  
8-30-2013.

IF YOU HAVE ANY DIFFICULTY RECEIVING THIS TRANSMISSION, PLEASE CONTACT OUR  
 OFFICE AT (248) 674-4655. THANK YOU.

ATTENTION: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and  
 exempt from disclosure under applicable laws. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the  
 intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication  
 in error, please notify us immediately by telephone and return the original message to us at the above address via the U.S. Postal Service.

Thank you.

Date Sent ASF By 11-5-14

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Nov. 5. 2014 12:37PM

No. 6654 P. 2

Phone: 248-858-0521  
Fax: 248-858-0416  
Email: craigk@oakgov.com

6<sup>TH</sup> CIRCUIT COURT  
OAKLAND COUNTY CLERK  
CONCEALED PISTOL LICENSING BOARD  
1200 N. TELEGRAPH RD  
PONTIAC MI 48341

# Fax

To:	RECORDS - 51 <sup>ST</sup> DC	From:	KATHY CRAIG
Fax:	248-674-4476	Date:	November 3, 2014
Phone:		Pages:	COVER ONLY
Re:	REGISTER OF ACTION	CC:	

☐ Urgent   ☐ For Review   ☐ Please Comment   ☐ Please Reply   ☐ Please Recycle

**Comments:**

Please E-Mail or FAX to me a Court Register of Action (Disposition) on the following Defendant. We need this information to determine eligibility for a Concealed Pistol License.

RE: CLEOPHAS ANDREW BROWN, [REDACTED]

CASE #134951SD OWI Dated 10/25/2013

THANK YOU,

KATHY

FAX: 248-858-0416

RECEIVED FOR FILING  
DIST 51 COURT CLERK  
14 NOV -4 PM 1:25

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Nov. 5. 2014 12:38PM

No. 6654 P. 3

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STATE OF MICHIGAN 51ST JUDICIAL DISTRICT ORI630085J	REGISTER OF ACTIONS	CASE NO: 134951SD D01 SD X-REFERENCE #: 13-08146 STATUS: CLSD 10/29/14
---	---------------------	--

JUDGE OF RECORD: KUHN, RICHARD D., JR. P-42390  
JUDGE: KUHN, RICHARD D., JR. P-42390

STATE OF MICHIGAN v

BROWN/CLEOPHAS/ANDREW

CTN: 631300814601

TCN:

SID:

ENTRY DATE: 10/25/13

OFFENSE DATE: 08/03/13

VPN:

CDL: U

PAPER PLATE:

DOB: [REDACTED] SEX: M. RACE: B DLN: [REDACTED]

VEH YR: [REDACTED] VEH MAKE: [REDACTED] VIN: [REDACTED]

VEHICLE TYPE:

DEFENSE ATTORNEY ADDRESS

MCCARTY, JEFFREY T.,

201 E 4TH ST

ROYAL OAK MI 48067

BAR NO.

P-42633

Telephone No.

(248) 543-9000

OFFICER: DEPUTY T. SANFORD

DEPT: OCSD/

PROSECUTOR: COOPER, JESSICA R.,

P-23242

VICTIM/DESC:

COUNT 1 C/M/F: M 257.6251C

PACC#257.6251C

OPERATE WHILE HAVING BAC OF 0.17 GRAMS OR MORE

ARRAIGNMENT DATE: 10/31/13 PLEA: PLEA N-GLTY PLEA DATE: 10/31/13

FINDINGS: DISMISSED DISPOSITION DATE: 10/29/14

SENTENCING DATE:

FINE	COST	ST.COST	CON	MISC.	REST	TOT FINE	TOT DUE
0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

JAIL SENTENCE:

PROBATION:

VEH IMMOB START DATE:

NUMBER OF DAYS:

VEH FORFEITURE:

## BOND HISTORY:

2,500.00 PERSONAL BOND POSTED

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
08/03/13		
1	ORIGINAL CHARGE HIGH BAC	LAF
	CRIME VICTIM RIGHTS ASSESSMENT \$ 75.00	LAF
	STATE COSTS - MISDEMEANOR/ORDINANCE \$ 50.00	LAF
10/25/13		
	FILING DATE 102513	LAF
1	AUTHORIZATION OF COMPLAINT DATE	LAF
	PROS COOPER, JESSICA R., P-23242	LAF
	COMPLAINT ISSUANCE DATE	LAF
	MISCELLANEOUS ACTION HIGH BAC	AJF
	DEPUTY SANFORD CAME IN TO DO SWEAR TO. WARRANT	AJF
	ANT WAS SIGNED, BUT NOT ISSUED. WARRANT	AJF
	LEFT IN FILE. COURT DATE TO BE SET AND MAIL	AJF
	ED OUT TO DEF AT ABOVE ADDRESS.	AJF
	MISCELLANEOUS ACTION HIGH BAC	AJF
	JUDGE BATCHIK-P10534 VISITING JUDGE.	AJF
	MISCELLANEOUS ACTION HIGH BAC	AJF
	JUDGE OF RECORD/MAGISTRATE CHANGED	AJF



Nov. 5. 2014 12:38PM

No. 6654 P. 4

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 134951SD

PAGE 2

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	FROM: 00000 NO SPECIFIC JUDGE	AJF
	TO: 42390 KUHN, RICHARD D., JR.	AJF
	SCHEDULED FOR ARRAIGNMENT/PRE-TRIAL	
	103113 830A KUHN, RICHARD D., JR. P-42390	AJF
	NOTICE MAILED TO DEF	AJF
	NOTICE TO PROS.	AJF
1	NOTICE TO APPEAR GENERATED	
	HIGH BAC	AJF
10/30/13		
	CHANGE CASE 134851SD TO 134951SD	AK
	CASE NUMBER CHANGED TO 134951SD	AK
10/31/13		
1	MISCELLANEOUS ACTION HIGH BAC	LAF
	ATT MULLEN, ROBERT S., P-54827	LAF
	ATTY FILED APP	LAF
	ARRAIGNMENT/PRE-TRIAL HELD	
	ALL COUNTS	MAS
	JDG KUHN, RICHARD D., JR. P-42390	MAS
	PLEAD NOT GUILTY	MAS
	SCHEDULED FOR PRE-TRIAL 112113 830A KUHN, RICHARD D., JR. P-42390	MAS
	PERSONAL	MAS
	BOND POSTED \$ 2500.00	MAS
	KAREN BASIRICO - CER 7873	MAS
	NO DRUGS/ALCOHOL/MOOD ALTERING SUBSTANCES	MAS
	NTA TO DEF/ATTY	MAS
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	MAS
	TESTING THRU NOVA-RANDOM PBT/UA INFO TO	MAS
	DEF/FAXED	MAS
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	MAS
11/20/13		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	REMOVED FROM DOCKET 112113 830A KUHN, RICHARD D., JR. P-42390	LAF
	ADJOURN BY DEFENSE 121213 KUHN, RICHARD D., JR. P-42390	LAF
	ATTY FILED STIP AND ORDER FOR ADJ. MAILED	LAF
	NOTICE TO ATTY. NOTICE TO PROS	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	SCHEDULED FOR PRE-TRIAL 121213 830A KUHN, RICHARD D., JR. P-42390	LAF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LAF
12/12/13		
	PRE-TRIAL HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR JURY SELECTION	
	020414 130P KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR JURY-TRIAL 021914 930A KUHN, RICHARD D., JR. P-42390	KMV
	CER7873	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	SCHEDULED FOR MOTION HEARING	
	012814 130P KUHN, RICHARD D., JR. P-42390	KMV

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Nov. 5. 2014 12:38PM

No. 6654 P. 5

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 134951SD

PAGE 3

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	BOND CONDS CONTINUED	KMV
	NOTICE TO DEF/ATTY/PROS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	REMOVED FROM DOCKET 020414 130P KUHN,RICHARD D.,JR. P-42390	KMV
	SCHEDULED FOR JURY SELECTION	
	020414 830A KUHN,RICHARD D.,JR. P-42390	KMV
	NEW NOTICE MAILED TO DEF/ATTY	KMV
	NEW NOTICE TO PROS	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
01/17/14		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	ATTY FILED DEF'S MOTION AND BRIEF IN SUPPORT	LAF
	T OF MOTION TO SUPPRESS BASED ON LACK OF RE	LAF
	QUISITE SUSPICION, DEF'S MOTION AND BRIEF I	LAF
	N SUPPORT OF MOTION TO SUPPRESS AND DEF'S	LAF
	MOTION AND BRIEF IN SUPPORT TO SUPPRESS	LAF
01/27/14		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED THE PEOPLE'S RESPONSE TO DEF'S	LAF
	MOTION TO CUPPRESS FOR AN ALLEDEEDLY UNCON-	LAF
	STITUTIONAL STPO OF HIS VEHICLE, THE PEOPLE	LAF
	'S RESPONSE TO DEF'S MOTION TO SUPPRESS	LAF
	BASED ON LACK OF REQUISITE SUSPICION, PEOP	LAF
	E MEMORANDUM OF LAW IN SUPPORT TO RESPONSE	LAF
	TO DEF'S MOTION TO SUPPRESS BASED ON LACK	LAF
	OF REQUISITE SUSPICION	LAF
01/28/14		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED THE PEOPLE'S RESPONSE TO DEF'S	LAF
	MOTION TO SUPPRESS BASED UPON THE ALLEGED	LAF
	UNCONSTITUTIONALITY OF MCL 257.625C	LAF
	HEARING ON MOTION HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR. P-42390	KMV
	CER7873	KMV
	ATTY WISHES TO WITHDRAW - GRANTED	KMV
	DEF TO HIRE ANOTHER ATTY	KMV
	JURY SELECTION WILL BE TREATED AS PRE TRIAL	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	ATT PRO PER # 1	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	REMOVED FROM DOCKET 021914 930A KUHN,RICHARD D.,JR. P-42390	KMV
02/04/14		
	JURY SELECTION HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR. P-42390	KMV
	SCHEDULED FOR PRE-TRIAL 022014 830A KUHN,RICHARD D.,JR. P-42390	KMV
	CER7873 HAS NOT HIRED NEW ATTY YET	KMV
	NOTICE TO DEF	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	CONT BOND CONDS	KMV

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## 021b - People's Exhibit 2

Nov. 5. 2014 12:39PM

No. 6654 P. 6

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 134951SD

PAGE 4

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
02/11/14	NOTICE TO PROS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	ATT MCCARTY, JEFFREY T.,	P-42633 LAF
	ATTY FILED APP AND STIP AND ORDER FOR ADJ	LAF
02/12/14		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	REMOVED FROM DOCKET 022014 830A KUHN, RICHARD D., JR. P-42390	LAF
	ADJOURN BY DEFENSE 030614 KUHN, RICHARD D., JR. P-42390	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	SCHEDULED FOR PRE-TRIAL 030614 830A KUHN, RICHARD D., JR. P-42390	LAF
	MAILED NOTICE TO ATTY. NOTICE TO PROS	LAF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LAF
03/06/14		
	PRE-TRIAL HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR EVIDENTIARY HEARING	
	041714 130P KUHN, RICHARD D., JR. P-42390	KMV
	CEO8283	KMV
	NOTICE TO DEF/ATTY/PROS	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
04/08/14		
1	MISCELLANEOUS ACTION HIGH BAC	LAF
	ATTY FILED MOTION TO SUPPRESS BLOOD ANALYSIS	LAF
	S FOR LACK OF VALID CONSENT, BRIEF IN SUPPO	LAF
	RT OF MOTION TO SUPPRESS BLOOD ANALYSIS FOR	LAF
	LACK OF VALID CONSENT	LAF
04/17/14		
1	MISCELLANEOUS ACTION HIGH BAC	LAF
	THE PEOPLE OF THE STATE OF MICH RESPONSE TO	LAF
	DEFENDANTS MOTION TO SUPPRESS BLOOD	LAF
	ANALYSIS FOR LACK OF VALID CONSENT	LAF
	MISCELLANEOUS ACTION HIGH BAC	LAF
	MEMORANDUM OF LAW IN SUPPORT OF THE	LAF
	PEOPLE'S RESPONSE TO DEFENATS MOTION TO	LAF
	SUPPRESS BLOOD ANALYSIS FOR LACK OF VALID	LAF
	CONSENT	LAF
	EVIDENTIARY HEARING HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR EVIDENTIARY HEARING	
	050114 130P KUHN, RICHARD D., JR. P-42390	KMV
	CEO7376	KMV
	CONT W/BOND CONDS	KMV
	NOTICE TO DEF/ATTY/PROS	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
05/01/14		
	EVIDENTIARY HEARING HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	CER7873	KMV
	MOTIONS TAKEN UNDER ADVISEMENT	KMV

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## 022b - People's Exhibit 2

Nov. 5. 2014 12:39PM

No. 6654 P. 7

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 134951SD

PAGE 5

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
05/06/14	BRIEFS TO BE SUBMITTED BY 5/12/14	KMV
05/12/14	1 NOTICE OF NON-COMPLIANCE HIGH BAC	
	MISCELLANEOUS ACTION ALL COUNTS	ENF
	STATE PROS. FILED: PEOPLES SUP. MEMORANDUM	ENF
	OF LAW IN OPPOSITION TO DEF'S MOTIONS TO	ENF
	SURPRESS.	ENF
05/13/14	1 MISCELLANEOUS ACTION HIGH BAC	LAF
	ATTY CALLED-PUT ON CALENDAR WRONG-WILL HAVE	LAF
	BRIEFS IN BY TOMORROW-HAS EXAM TODAY	LAF
05/14/14	REC'D BY FAX SUPPLEMENTAL BRIEF IN SUPPORT	AJF
	OF DEFENDANT'S MOTIONS FROM DEF'S ATTY.	AJF
05/16/14	1 DRIVER LICENSE REINSTATEMENT FEE (SOS)	
	HIGH BAC \$ 25.00	
	DRIVERS LICENSE REINSTATEMENT/JUROR COMPENSATION FEE	
	HIGH BAC \$ 20.00	
	FAC/FCJ/FCPV NOTICE GENERATED	
	HIGH BAC	
	FAC/FCJ/FCPV DELETED FROM FAC FILE	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	SUPPLEMENTAL SENTENCING \$ 45.00-	LAF
	DELETED SOS FEE	LAF
	DRIVER LICENSE REINSTATEMENT FEE (SOS) \$ 25.00-	LAF
	DRIVERS LICENSE REINSTATEMENT/JUROR COMPENSATION FEE	
	\$ 20.00-	LAF
07/07/14	MISCELLANEOUS ACTION ALL COUNTS	KMV
	TIME EXTENDED 073114 KUHN,RICHARD D.,JR. P-42390	KMV
08/05/14	1 NOTICE OF NON-COMPLIANCE HIGH BAC	
08/29/14	MISCELLANEOUS ACTION ALL COUNTS	LAF
	SCHEDULED FOR PRE-TRIAL 091114 830A KUHN,RICHARD D.,JR. P-42390	LAF
	SCHEDULED FOR JURY SELECTION	
	100714 830A KUHN,RICHARD D.,JR. P-42390	LAF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	OPINION AND ORDER FILED. MAILED NOTICE AND	LAF
	OPINION TO ATTY AND PROS	LAF
09/09/14	MISCELLANEOUS ACTION ALL COUNTS	LAF
	DEF DROPPED LETTER OFF FOR JUDGE TO READ	LAF
	DID NOT GIVE TO JUDGE PER CASE PENDING	LAF
	LETTER IN FILE	LAF
09/11/14	PRE-TRIAL HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR. P-42390	KMV
	CER7873	KMV

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## 023b - People's Exhibit 2

Nov. 5. 2014 12:39PM

No. 6654 P. 8

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 134951SD

PAGE 6

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	MOTION TO STAY PROCEEDINGS - DENIED	KMV
	JURY SELECTION SET FOR 10/7/14	KMV
	PARTIES ALREADY HAVE NOTICES	KMV
10/07/14	SCHEDULED FOR JURY-TRIAL 102914 900A KUHN,RICHARD D.,JR. P-42390	ENF
	NOTICE TO DEF/ATTY AT COUNTER	ENF
	NOTICE TO PROS.	ENF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	ENF
10/16/14	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED PROOF OF SERVICE	LAF
10/28/14	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED PEOPLE'S PROPOSED JURY INSTRUCTI ONS	LAF
10/29/14	JURY TRIAL HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR. P-42390	KMV
	CER7873	KMV
	PEOPLE REQ ADJ - DENIED	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	DISMISSED	KMV
	DISMISSED WITHOUT PREJUDICE	KMV
	PEOPLE UNABLE TO PROCEED	KMV
	CRIME VICTIM RIGHTS ASSESSMENT \$ 75.00-	KMV
	STATE COSTS - MISDEMEANOR/ORDINANCE \$ 50.00-	KMV
	CASE CLOSED	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	CRIMINAL HISTORY RECORD ENTERED INTO LEIN	KMV

\*\*\*\*\* END OF REGISTER OF ACTIONS \*\*\*\*\* 11/04/14 13:32

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Oakland County  
Concealed Pistol Licensing Board

**CONCEALED PISTOL LICENSE  
SUSPENSION FORM**

Name: Cleophas Brown DOB: [REDACTED] Date: 11-19-13

Permit Number: 683528G Received Permit: ☐ Yes ☒ No

Your permit to carry a concealed pistol has been suspended for the following reason(s):

- ☐ Your records indicate that you have been convicted of a felony/high misdemeanor (permanent denial).

Date \_\_\_\_\_ Court \_\_\_\_\_ Charge \_\_\_\_\_

- ☐ Your records indicate that you have been convicted of Domestic Violence (permanent denial).

Date \_\_\_\_\_ Court \_\_\_\_\_

- ☐ Your records indicate that you have been convicted of a misdemeanor (8-year denial).

Date \_\_\_\_\_ Court \_\_\_\_\_ Charge \_\_\_\_\_

- ☐ Your records indicate that you have been convicted of a misdemeanor (3-year denial).

Date \_\_\_\_\_ Court \_\_\_\_\_ Charge \_\_\_\_\_

- ☐ Your records indicate that you have a Personal Protection Order (PPO) against you (denial for duration of the PPO).

Court \_\_\_\_\_ Expiration Date \_\_\_\_\_

- ☒ Your records indicate that you have charges/warrants pending.

RE 8-30-13 51st DC DWI 257.625 IC  
Date 10-25-13 Charged. Court Charge High BAC

- ☐ Board Decision: Detrimental to the safety of Applicant and/or others.

- ☐ Other: \_\_\_\_\_

Sgt. P. Hill  
Oakland County Sheriff's Office

[Signature]  
Michigan State Police

[Signature]  
Oakland County Representative

(waived)

**OAKLAND COUNTY CONCEALED WEAPON LICENSING BOARD****OAKLAND COUNTY COURTHOUSE****1200 N TELEGRAPH RD****PONTIAC MI 48341-0413****248-452-2194/248-452-2233****OAKLAND COUNTY CONCEALED WEAPONS LICENSING BOARD MEETING NOVEMBER 19, 2013.**

A MEETING OF THE BOARD WAS HELD AT 8:30 AM IN THE OFFICE OF THE OAKLAND COUNTY CLERK BUILDING.

PRESENT FROM THE STATE POLICE WAS:	LT. BOB HONEY
PRESENT FROM THE SHERIFF DEPARTMENT WAS:	SGT. TODD HILL
PRESENT FROM THE BOARD OF COMM WAS:	MARK CORTIS
PRESENT FROM THE CLERKS OFFICE WAS:	KATHY CRAIG

THE FOLLOWING APPLICANTS WERE EITHER: APPROVED, SUSPENDED, DENIED, REVOKED OR REINSTATED. ALL GUN BOARD MEMBERS PRESENT VOTED IN FAVOR OF THE FOLLOWING:

**SUSPENDED - 16**

SANTORO, PAUL	531938K - OWI PEND - 41 <sup>ST</sup> DC
ANKAWI, VAN	532617G - RETAIL FRAUD PEND - 30 <sup>TH</sup> DC
BETHEA, SHAYLA	498056J - U&P PEND - 16 <sup>TH</sup> DC
BROWN, CLEOPHAS	683528G - OWI HI BAC PEND - 51 <sup>ST</sup> DC
CADREAU, ALLAN	679905K - OWI 2 <sup>ND</sup> PEND - 44 <sup>TH</sup> DC
FOSTER II, JEFFIE	278100J - 6 FEL CTS - CHOP SHOP PEND - 36 <sup>TH</sup> DC
ORLEWICZ, MARC	534255J - CSC & ASSLT PEND - 3 <sup>RD</sup> CIR
RUSS, KENNETH	408396J - FEL & MISD BRIBERY PEND - 36 <sup>TH</sup> DC
STEELE, DION	598621H - FEL CHILD SUPPORT FTP PEND - 3 <sup>RD</sup> CIR
TERRY, JEFFREY	437526C - OWI PEND - 46 <sup>TH</sup> DC
HAMPTON III, SIDNEY	579104G - USE OF MARIJ PEND - 46 <sup>TH</sup> DC - N/S
ARMSTRONG, SIDNEY	630827E - VCSA PEND - 52-3 DC - N/S
DEDVUKAJ, ADELINA	471493J - VCSA PEND - 48 <sup>TH</sup> DC - N/S
GADSON, KEITH	415690C - DWLS 2 <sup>ND</sup> - 48 <sup>TH</sup> DC; EMBEZ - 36 <sup>TH</sup> DC PEND - N/S
SHAW, DEVONNE	604143G - 5 FELONY CHARGES PEND - 50 <sup>TH</sup> DC - N/S
STEELE, LONIQUE	402572A - LARCENY PEND - 34 <sup>RD</sup> DC - N/S

**REVOKED - 24**

JINDO, JINDO	113900C - DOM VIOL U/SAA CONV (No CPL allowed) - 52-3 DC
PARKER, DAIMON	625811E - PPO U/9/12/14 - 22 <sup>ND</sup> CIR
ASMAR, SALAM	666930H - VCSA PEND - 47 <sup>TH</sup> DC - No longer wants CPL
BELLI, IAN	452110K - PPO U/8/27/14
BOSTICK JR, CHARLES	636700J - PPO U/9/23/14 - 6 <sup>TH</sup> CIR
DEWEY, NICHOLAS	625990K - DOM VIOL U/SAA -
HARRIS, SARAH	311123E - OWVI CONV
HEIDACKER, ANDREW	600723C - OWVI CONV - 51 <sup>ST</sup> DC
JACKSON, GARRY	391932H - CSC PEND & PPO - 50 <sup>TH</sup> DC
MAHON, MATTHEW	635613G - OWVI CONV - 21 <sup>ST</sup> DC
MASON, MARLIN	545362E - OWI & CCW U/INFL CONV - 37 <sup>TH</sup> DC
MITCHELL, JASON	285223C - MED MARIJ CARD
NICHOLAS ADAM	543490C - PPO U/09/25/14 - 6 <sup>TH</sup> CIR



2013-9990



Lisa Brown

OAKLAND COUNTY CLERK/REGISTER OF DEEDS

[www.oakgov.com/clerkrod](http://www.oakgov.com/clerkrod)

Vital Records

May 16, 2018

CLEOPHAS BROWN

RE: CPL 683528G

Dear Mr. Brown:

The following is the information you requested on the revocation of your Concealed Pistol License:

On 5/20/2015 you were convicted of Operating W/High BAC MCL 257.6251C. This is a 3-year disqualifying misdemeanor.

If you have any questions, please contact me at 248-858-0521.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Craig".

Kathy Craig  
Office Leader  
Oakland County Clerk – Vital Records

Administrative Offices  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0560  
[clerk@oakgov.com](mailto:clerk@oakgov.com)

County Clerk's Office  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0581  
[clerklegal@oakgov.com](mailto:clerklegal@oakgov.com)

Election Division  
1200 N Telegraph Rd-Dept 413  
Pontiac Mi 48341-0413  
(248) 858-0564  
[elections@oakgov.com](mailto:elections@oakgov.com)

Register of Deeds Office  
1200 N Telegraph Rd-Dept 480  
Pontiac Mi 48341-0480  
(248) 858-0605  
[deeds@oakgov.com](mailto:deeds@oakgov.com)

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## **APPENDIX B**

## 028b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:43AM

51 District Cour

No. 0847 P. 2

RECEIVED by MSC 8/27/2020 10:49:36 AM

STATE OF MICHIGAN 51ST JUDICIAL DISTRICT ORI630085J	REGISTER OF ACTIONS	CASE NO: 144309SD D01 SD X-REFERENCE #: 14-18660 STATUS: CLSD 09/14/15
JUDGE OF RECORD: KUHN, RICHARD D., JR. P-42390 JUDGE: KUHN, RICHARD D., JR. P-42390		
STATE OF MICHIGAN v  BROWN/CLEOPHAS/ANDREW [REDACTED]		CTN: 631401866001 TCN: [REDACTED] SID: [REDACTED] ENTRY DATE: 11/04/14 OFFENSE DATE: 08/30/13 ARREST DATE:
DEFENDANT PHONE: [REDACTED] DOB: [REDACTED] SEX: M RACE: B VEH YR: [REDACTED] VEH MAKE: [REDACTED]	VEHICLE TYPE: [REDACTED] DLN: [REDACTED] VIN: [REDACTED]	VPN: [REDACTED] CDL: U PAPER PLATE: [REDACTED]
DEFENSE ATTORNEY ADDRESS HERSKOVIC, DAVID B., 3000 TOWN CTR STE 1250 SOUTHFIELD MI 48075		BAR NO. P-68897 Telephone No. (248) 356-2010
OFFICER: DEPUTY T. SANFORD		DEPT: OCSD/  P-23242
PROSECUTOR: COOPER, JESSICA R., VICTIM/DESC:		

CNT: 01 C/M/F: M 257.6251C PACC#257.6251C  
 OPERATE WHILE HAVING BAC OF 0.17 GRAMS OR MORE  
 ARRAIGNMENT DATE: 11/20/14 PLEA: PLEA N-GLTY PLEA DATE: 11/20/14  
 FINDINGS: GLTY BY JURY DISPOSITION DATE: 05/20/15  
 SENTENCING DATE: 06/11/15

FINE	COST	ST.COST	CON	MISC.	REST	TOT FINE	TOT DUE
5.00	695.00	50.00	0.00	640.00	0.00	1390.00	0.00

JAIL SENTENCE: PROBATION: 6 MONTHS PO: REID, ANGLE,  
 OPTIONAL JAIL: 23 DAYS PROBATION END DATE: 12/11/15  
 VEH IMMOB START DATE: NUMBER OF DAYS: VEH FORFEITURE:

BOND HISTORY:  
 1,000.00 PERSONAL BOND POSTED

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
08/30/13		
1	ORIGINAL CHARGE HIGH BAC	ENF
	CRIME VICTIM RIGHTS ASSESSMENT \$ 75.00	ENF
	STATE COSTS - MISDEMEANOR/ORDINANCE \$ 50.00	ENF
11/04/14		
	FILING DATE 110414	ENF
1	AUTHORIZATION OF COMPLAINT DATE	ENF
	PROS COOPER, JESSICA R., P-23242	ENF
	COMPLAINT ISSUANCE DATE	ENF
	MISCELLANEOUS ACTION ALL COUNTS	AJF
	JDG SWITALSKI, JODINE DE P-66230	AJF
	WARRANT ISSUED	AJF
	KRIS BLY - CER 8285	AJF
	DEPUTY SANFORD CAME IN TO DO SWEAR TO.	AJF
	WARRANT WAS SIGNED AND GIVEN TO DEPUTY SAN	AJF

## 029b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:43AM

51 District Cour

No. 0847 P. 3

RECEIVED by MSC 8/27/2020 10:49:36 AM

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 2

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	FORD IN COURT ROOM, TO BE PUT INTO LEIN,	AJF
	MISCELLANEOUS ACTION ALL COUNTS	AJF
	WARRANT CANCELED FROM LEIN	AJF
	****DEPUTY SANFORD DID NOT TAKE WARRANT****	AJF
	*****SET CASE UP FOR A ARR/PRETRIAL*****	AJF
	MISCELLANEOUS ACTION ALL COUNTS	AJF
	JUDGE OF RECORD/MAGISTRATE CHANGED	AJF
	FROM: 00000 NO SPECIFIC JUDGE	AJF
	TO: 66230 SWITALSKI, JODINE DEBBRECHT,	AJF
	SCHEDULED FOR ARRAIGNMENT/PRE-TRIAL	
	111914 1000A SWITALSKI, JODINE DE P-66230	AJF
	NOTICE MAILED TO DEF	AJF
	NOTICE TO PROS.	AJF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	AJF
	*****WARRANT LEFT IN FILE*****	AJF
11/19/14		
	MISCELLANEOUS ACTION ALL COUNTS	KSM
	JUDGE OF RECORD/MAGISTRATE CHANGED	KSM
	FROM: 66230 SWITALSKI, JODINE DEBBRECHT,	KSM
	TO: 42390 KUHN, RICHARD D., JR.	KSM
	REMOVED FROM DOCKET 111914 1000A SWITALSKI, JODINE DE P-66230	KSM
	SCHEDULED FOR ARRAIGNMENT 111914 1000A SWITALSKI, JODINE DE P-66230	KSM
	MISCELLANEOUS ACTION ALL COUNTS	KSM
	SCHEDULED FOR ARRAIGNMENT/PRE-TRIAL	
	112014 830A KUHN, RICHARD D., JR. P-42390	KSM
	ORDER/NOTICE TO PROS. NOTICE GIVE TO DEF.	KSM
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KSM
11/20/14		
	ARRAIGNMENT HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	ATT WAIVED, RIGHT TO ATT # 8888	KMV
	PLEAD NOT GUILTY	KMV
	SCHEDULED FOR JURY SELECTION	
	010615 830A KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR JURY-TRIAL 012115 930A KUHN, RICHARD D., JR. P-42390	KMV
	PERSONAL	KMV
	BOND POSTED \$ 1000.00	KMV
	CER7873 WAIVED ATTY	KMV
	CONDS: NO ALCOHOL/DRUG/MOOD ALTERING SUBST,	KMV
	NOTICE/BOND TO DEF	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	NOTICE TO PROS	KMV
11/24/14		
	MISCELLANEOUS ACTION ALL COUNTS	KSM
	PEOPLE'S REQUEST FOR DISCOVERY	KSM
	MISCELLANEOUS ACTION ALL COUNTS	ENF
	DEF WOULD LIKE TO ASK THE JUDGE FOR AT CT	ENF
	APPT ATTY	ENF
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	ATT COURT ATT., SOBRIETY # 2021	KMV

## 030b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:44AM 51 District Cour

No. 0847 P. 4

RECEIVED by MSC 8/27/2020 10:49:36 AM

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 3

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	SCHEDULED FOR PRE-TRIAL 120414 830A KUHN, RICHARD D., JR. P-42390	KMV
	DEF REQ COURT APPTED ATTY - GRANTED	KMV
	SET FOR PRE TRIAL	KMV
	NOTICE/ATTY FORM TO DEF	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	NOTICE TO PROS	KMV
12/04/14	PRE-TRIAL HELD ALL COUNTS	LAF
	ATT GALAT, RICHARD, P-53662	LAF
	KAREN BASIRICO - CER 7873	LAF
	NOTICE TO ATTY. RICHARD GALLAT APPT AS ATTY	LAF
	COURT DATES ALREADY SET. ATTY TO BE HERE	LAF
	BY 9:30AM,	LAF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LAF
01/06/15	1 JURY SELECTION HELD HIGH BAC	JRT
	JDG KUHN, RICHARD D., JR. P-42390	JRT
	ATT PRO PER # 1	JRT
	JILL PENFOUND - CEO 8284	JRT
	MR GALAT REQUESTING TO WITHDRAW FROM THE	JRT
	CASE REQUEST GRANTED	JRT
	GAVE FILE TO KIM FOR NEW ATTORNEY	JRT
	JUDGE REQUESTING DATE BE SET AFTER HE IS	JRT
	ABLE TO WITH KIM	JRT
	JUDGE LET DEFENDANT KNOW NOT TO LEAVE	JRT
	BUILDING UNTIL THE FRONT COUNTER GIVE HIM	JRT
	THE NEW DATE	JRT
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	ATT HAINES, DERWOOD A., J P-46481	LAF
	SCHEDULED FOR PRE-TRIAL 012915 915A KUHN, RICHARD D., JR. P-42390	LAF
	JUDGE APPT DERWOOD HAINES AS ATTY. CONFIRM-	LAF
	ED APPT WITH ATTY. MAILED NOTICE TO ATTY	LAF
	AND DEF. NOTICE TO PROS. ATTY WILL BE LATE	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	REMOVED FROM DOCKET 012115 930A KUHN, RICHARD D., JR. P-42390	LAF
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LAF
01/29/15	PRE-TRIAL HELD ALL COUNTS	KMV
	JDG KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR JURY SELECTION	
	041415 830A KUHN, RICHARD D., JR. P-42390	KMV
	SCHEDULED FOR JURY-TRIAL 042415 900A KUHN, RICHARD D., JR. P-42390	KMV
	CER7873 DEF REPRESENTING HIMSELF BUT ATTY	KMV
	DERWOOD HAINES APPTED TO HELP	KMV
	DEF TO FILE MOTIONS BY 2/20/15	KMV
	PROS TO RESPOND BY 3/13/15	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	SCHEDULED FOR MOTION HEARING	
	032615 130P KUHN, RICHARD D., JR. P-42390	KMV
	NOTICE TO DEF/ATTY/PROS	KMV



## 031b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:44AM

51 District Cour

No. 0847 P. 5

RECEIVED by MSC 8/27/2020 10:49:36 AM

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 4

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	NOTICE TO APPEAR GENERATED ALL COUNTS	KMV
	NOTICE TO APPEAR GENERATED ALL COUNTS	LAF
02/10/15		
1	MISCELLANEOUS ACTION HIGH BAC	LAF
	ATTY FILED MOTION TO SUPPRESS BLOOD DRAW	LAF
	DUE TO BROKEN CHAIN OF CUSTODY, MOTION TO	LAF
	DISMISS DUE TO MISSING EVIDENCE	LAF
03/26/15		
	HEARING ON MOTION HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR.	P-42390 KMV
	CER7873	KMV
	PROS DID NOT RECEIVE MOTIONS FROM DEF	KMV
	MOTIONS TO BE HEARD ON JURY SELECTION DATE	KMV
	PARTIES ALREADY HAVE NOTICE	KMV
04/13/15		
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED PEOPLE'S INTENT TO INTRODUCE	LAF
	FORENSIC LABORATORY REPORTS PURSUANT TO	LAF
	MCR 6.202(C) AND PROOF OF SERVICE	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED STIP AND ORDER TO ADJOURN TRIAL	LAF
	AND PROOF OF SERVICE	LAF
	MISCELLANEOUS ACTION ALL COUNTS	LAF
	PROS FILED PEOPLE'S RESPONSE IN OPPOSITION	LAF
	TO DEF'S MOTION TO DISMISS, PEOPLE'S BRIEF	LAF
	IN RESPONSE TO DEF'S MOTION TO SUPPRESS THE	LAF
	BLOOD RESULTS AND PROOF OF SERVICE	LAF
04/14/15		
	HEARING ON MOTION HELD ALL COUNTS	KMV
	JDG KUHN,RICHARD D.,JR.	P-42390 KMV
	CER7873	KMV
	MOTION TO SUPPRESS BLOOD RESULTS - DENIED	KMV
	MOTION TO DISMISS - DENIED	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	SCHEDULED FOR JURY SELECTION	
	050515 830A KUHN,RICHARD D.,JR. P-42390	KMV
	SCHEDULED FOR JURY-TRIAL 052015 930A KUHN,RICHARD D.,JR. P-42390	KMV
	NOTICE TO DEF/ATTY/PROS	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	REMOVED FROM DOCKET 042415 900A KUHN,RICHARD D.,JR. P-42390	KMV
	PROS FILED STIP AND ORDER TO ADJ TRIAL	KMV
	ATTY DERWOOD HAINES CANNOT BE HERE ON	KMV
	5/5/15 FOR JURY SELECTION - JUDGE WILL APPT	KMV
	ANOTHER ATTY FOR JURY SELECTION	KMV
04/15/15		
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	JUDGE APPTED JACK HOLMES TO ASSIST DEF AT	KMV

## 032b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:45AM

51 District Cour

No. 0847 P. 6

RECEIVED by MSC 8/27/2020 10:49:36 AM

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 5

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	JURY SELECTION	KMV
	NOTICE MAILED TO JACK HOLMES	KMV
05/19/15	SID ADDED	KAS
	MISCELLANEOUS ACTION ALL COUNTS	KAS
	ADDED SID	KAS
05/20/15		
1	JURY TRIAL HELD HIGH BAC	KMV
	JDG KUHN,RICHARD D.,JR.	P-42390 KMV
	FOUND GUILTY BY JURY	KMV
	SENTENCE \$ 125.00	KMV
	CER7873	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	SCHEDULED FOR SENTENCING 061115 1000A KUHN,RICHARD D.,JR.	P-42390 KMV
	** DEF NEEDS TO GO TO OCSD TO BE BOOKED	KMV
	BEFORE SENTENCING DATE **	KMV
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	KMV
	NOTICE TO DEF/ATTY/PROS	KMV
	SENT TO PROB FOR PSI	KMV
	PROBATION SCHEDULING ALL COUNTS	LHK
	SCHEDULED FOR PRE-SENTENCE INVESTIGATION	
	052715 230P REID,ANGIE,	# 2302 LHK
05/21/15		
1	ABSTRACT GENERATED SEQ: 00005	KMV
06/04/15		
	PROBATION SCHEDULING ALL COUNTS	LHK
	SCHEDULED FOR OVERSIGHT VISIT	
	061815 200P GLODICH,COLLEEN,	# 2309 LHK
	NOTICE TO APPEAR GENERATED	
	ALL COUNTS	LHK
06/11/15		
1	ORDER FOR FINGERPRINTS GENERATED	
	HIGH BAC	AJF
	TCN ADDED	AJF
	MISCELLANEOUS ACTION HIGH BAC	AJF
	DEFENDANT WAS BOOKED AT OCSD AND TURNED IN	AJF
	HIS ORDER FOR FINGERPRINTS. ADDED TCN #.	AJF
	SENTENCE HEARING HELD HIGH BAC	KMV
	JDG KUHN,RICHARD D.,JR.	P-42390 KMV
	SUPPLEMENTAL SENTENCING \$ 1265.00	KMV
	ABSTRACT REQUESTED	KMV
	CER7873	KMV
	** PHASE 4 **	KMV
	COMMUNITY SERVICE FEE \$ 75.00	KMV
	ATTORNEY FEES \$ 100.00	KMV
	STATUTE FINE \$ 5.00	KMV
	STATUTE COSTS \$ 695.00	KMV
	PROBATION OVERSIGHT FEES \$ 390.00	KMV
	SCHEDULED TO PAY 121115	KMV
	OPTIONAL JAIL TERM 023D	KMV
	COMMUNITY SERVICE IN LIEU OF SERVING JAIL TERM 005D	KMV



## 033b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:45AM 51 District Cour

No. 0847 P. 7

RECEIVED by MSC 8/27/2020 10:49:36 AM

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 6

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
	PROBATION 006M	KMV
	PO REID, ANGIE, # 2302	KMV
	NOTICE/JDG OF SENT/REFERRALS TO DEF	KMV
	PARTIAL PAYMENT MADE HIGH BAC	BJC
	PAYMENT \$ 100.00 D284445	BJC
1	CASH TENDERED	BJC
	JDG OF SENT TO PROS	KMV
	MISCELLANEOUS ACTION ALL COUNTS	KMV
	CRIMINAL HISTORY RECORD ENTERED INTO LEIN	KMV
	ORDER OF PROBATION GENERATED	
	ALL COUNTS	LHK
	SC PHASE 4.	LHK
	SERVE 5 DAYS (25) HOURS COMMUNITY SERVICE	LHK
	PROGRAM IN LIEU OF JAIL.	LHK
	FINES/COSTS MAY BE PAID THROUGH PROBATION	LHK
	BASED UPON PAYMENT PLAN	LHK
	ESTABLISHED.	LHK
	MUST PAY COST RECOVERY AS PROVIDED BY	LHK
	ARRESTING AGENCY.	LHK
	COMPLETE ALCOHOL EDUCATION PROGRAM.	LHK
	ATTEND VICTIM'S IMPACT PANEL.	LHK
	LICENSE SUSPENSION DETERMINED BY SECRETARY	LHK
	OF STATE.	LHK
	REPORTABLE TO SECRETARY OF STATE - DRIVERS	LHK
	LICENSE # 650 119 067 906.	LHK
	SUBMIT ALCOHOL TESTING BY 9AM/DRUG TESTING.	LHK
	PAY ATTORNEY FEES OF \$100.00.	LHK
	TERMS OF PROBATION MAY BE REDUCED UPON	LHK
	RECOMMENDATION OF PROBATION	LHK
	OFFICER.	LHK
	SHALL NOT FREQUENT ANY ESTABLISHMENT WHOSE	LHK
	PRIMARY PURPOSE IS TO SERVE	LHK
	ALCOHOLIC BEVERAGES.	LHK
	NO USE OF ALCOHOL, DRUGS OR MOOD ALTERING	LHK
	SUBSTANCES.	LHK
	MUST SUBMIT TO RANDOM TESTING AT	LHK
	DEFENDANT'S EXPENSE.	LHK
1	ABSTRACT GENERATED SEQ: 00003	KMV
	PROBATION SCHEDULING ALL COUNTS	LHK
	SCHEDULED FOR OVERSIGHT VISIT	
	072015 900A REID, ANGIE, # 2302	LHK
06/12/15	THIS CASE ADDED TO PAYMENT PLAN (Date of Agreement)	
	6/16/15	CG
	Total Payment Plan Amount: \$1,290.00	CG
	First payment of \$108 due on 6/26/15	CG
	BiWEEKLY \$108 due on FRI starting 7/10/15	CG
	Last payment of \$102 due on 11/30/15	CG
06/15/15	MISCELLANEOUS ACTION ALL COUNTS	KSM
	ATT HERSKOVIC, DAVID B., P-68897	KSM
	ATTY FILED CLAIM OF APPEAL	KSM
06/18/15		

## 034b - Register of actions for Defendant's prior drunk-driving conviction

May. 13. 2020 9:46AM 51 District Cour

No. 0847 P. 8

NAME: BROWN/CLEOPHAS/ANDREW

CASE NO: 144309SD

PAGE 7

DATE	ACTIONS, JUDGMENTS, CASE NOTES	INITIALS
PREV.		CG
ADDR:		CG
PREV.		CG
ADDR:		CG
06/23/15		
1	MONETARY TRANSACTION HIGH BAC	BJC
	FAX CREDIT CARD	BJC
	PAYMENT \$ 1290.00 D284892	BJC
1	CREDIT CARD TENDERED	BJC
07/07/15	** PAYMENT PLAN HAS BEEN SATISFIED AND TERMINATED **	KAS
07/20/15		
1	PROBATION SCHEDULING HIGH BAC	ASR
	SCHEDULED FOR OVERSIGHT VISIT	
	083115 900A REID,ANGIE, # 2302	ASR
07/28/15		
	MISCELLANEOUS ACTION ALL COUNTS	KSM
	TRANSFERRED FILE TO CIRCUIT COURT	KSM
	TOOK FILE IN PERSON (APPEAL)	KSM
08/31/15		
1	PROBATION SCHEDULING HIGH BAC	ASR
	CONTROL DATE 091115 1000A REID,ANGIE, # 2302	ASR
09/14/15		
	MOTION AND ORDER FOR DISCHARGE FROM PROBATION GENERATED	
	ALL COUNTS	ENF
	TERMS OF PROBATION FULFILLED.	ENF
	MISCELLANEOUS ACTION ALL COUNTS	ENF
	JDG KUHN,RICHARD D.,JR. P-42390	ENF
	COMPLETED TERMS. CLOSED CASE.	ENF
	FUTURE CALENDAR DATE(S) REMOVED	ENF
	CASE CLOSED	ENF
12/02/15		
1	MISCELLANEOUS ACTION HIGH BAC	KSM
	OPINION AND ORDER DENYING CLAIM OF APPEAL	KSM

\*\*\*\*\* END OF REGISTER OF ACTIONS \*\*\*\*\* 05/13/20 09:34

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## **APPENDIX C**

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff/Appellee,

-vs-

Case No.: 15-147772-AR  
Hon. Rudy J. Nichols

CLEOPHAS BROWN,

Defendant/Appellant.

\_\_\_\_\_  
KATHRYN G. BARNES (P41929)  
1200 N. Telegraph Road  
Pontiac, MI 48341  
(248) 858-0656

\_\_\_\_\_  
DAVID HERSKOVIC (P68897)  
3000 Town Center, Ste. 1250  
Southfield, MI 48075  
(248) 356-2010  
\_\_\_\_\_

**OPINION AND ORDER**  
**DENYING CLAIM OF APPEAL**

This matter is before the Court on Defendant/Appellant Cleophas Brown's claim of appeal of his criminal conviction in the 51<sup>st</sup> Judicial District Court. Defendant was charged with operating a motor vehicle with a high blood alcohol content. Defendant was found guilty by a jury and sentenced to six months of probation, 25 hours of community service, alcohol education classes, and assessed costs and fines.

Defendant seeks an order reversing his conviction and remanding for a new trial arguing he was denied due process of law due to the Prosecutor's repeated instances of misconduct throughout trial and failure to preserve exculpatory evidence including the Court's failure to give an adverse inference instruction. Defendant further argues that Michigan's implied consent law is unconstitutional because it compels all persons who operate a vehicle upon a public highway to relinquish important constitutional rights in order to avail themselves of various fundamental



## 037b - Circuit court opinion affirming Defendant's drunk-driving conviction

rights and other privileges. Specifically, that a person must relinquish a right to bodily integrity, privacy and unwanted bodily intrusion by utilizing one's driving privilege.

The People oppose the motion and the arguments are noted in this ruling where necessary.

MCL §770.3(1)(b) provides Defendant with the right to appeal the conviction in the District Court. This Court has jurisdiction under MCR 7.103(A)(1).

### I.

Defendant first argues that the Prosecutor improperly used civic duty arguments in his opening statements. The People object to the characterization as "misconduct" and disagree with Defendant's assertion. The language at issue used by the Prosecutor is as follows:

"This case is really about decisions. This case is about decisions that the Defendant made that night on August 20<sup>th</sup> [sic] of 2013. The Defendant made the decision to drive, a normal thing that most people do on a daily basis. The Defendant also made the decision to drink. Again, something that people do in social settings and other places. But the Defendant made the final decision to drink to the point where his blood was more than double what the legal limit is in Michigan and then drive his car and when the Defendant did that, he jeopardized the lives and safety of anyone who was on the road that night and at the end of this trial, after you hear the evidence and after you hear the testimony, I will once again be able to stand before you and I'll ask that you find the verdict of guilty as charged because that will be the only verdict that justice and truth demand." (Trial Transcript, Vol. I, pg. 26)

The court finds that these statements were not improper civic-duty arguments that somehow requested the jurors to suspend their power of judgment. Defendant fails to establish the statements were prosecutor error. Moreover, the trial court instructed the jury to decide the case based upon the evidence presented and that the attorney's arguments were not evidence. (Trial Transcript, Vol. I, pgs. 184-186)

### II.

Next, Defendant argues that the Prosecutor improperly vouched for the credibility of the witnesses during closing argument. The statements at issue are as follows:

"All we have is the word of Deputy David and Deputy Sanford, two sworn off - two sworn law enforcement officers who like Dr. Wilseck and Diane Bennett don't have any reason

to come in here, swear to tell the truth and to lie, to perjure themselves.” (Trial Transcript, Vol. I, pg. 175)

The Court finds the statements consistent with the fact that only those witnesses testified. Moreover, witness credibility is a proper subject for comment in closing argument. *People v Lodge*, 157 Mich App 544; 403 NW2d 591 (1987), lv den 429 Mich 851 (1987).

### III.

Next, Defendant contends that the Prosecutor failed to preserve the police dash cam video and an adverse instruction should have been given to the jury by the Court.

The People disagree and the Court finds that Defendant fails to satisfy the court that this amounts to any violation of Defendant’s due process rights. As the People point out, the trial court denied Defendant’s motion to dismiss due to the missing video. No bad faith on the part of the police or prosecutor has been established and the testimony of the witnesses support the reason for Defendant’s stop and the violation of the law, regardless of the existence of the video or lack of showing that it contained any exculpatory evidence. Defendant did not ask for an adverse jury instruction.

### IV.

Finally, Defendant contends that the implied consent law is unconstitutional. In challenging the law, Defendant must overcome the presumption of constitutionality. *People v Gregg*, 206 Mich App 208; 520 NW2d 690 (1994). Defendant fails to satisfy the burden.

MCL §257.625c states, “A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or other intoxicating substance, or any combination of them, in his or her blood or urine or the amount of alcohol in his or her breath if the person is arrested for drinking and driving. If a motorist refuses to submit to the test, he or she faces a license suspension. MCL §257.625d-f.

The statute does not coerce an individual to drive subject to a violation of one’s rights. To the contrary, the implied consent law coincides with an individual’s right to be free of unlawful search and seizure. The legislature operates to promote the health, safety and welfare

of the people of the State of Michigan. Here, Defendant maintains driving privileges and his decision to drive with high blood alcohol content subject to violation of the law.

For these reasons and those further stated by the People the Court denies Defendant's claim of appeal.

**IT IS SO ORDERED.**

This order resolves the last claim and closes the case.

Dated: October 29, 2015

/s/ Dennis Drury

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Hon. Rudy J. Nichols  
Circuit Court Judge  
Visiting Judge Drury

## **APPENDIX D**



**People v. Fort**

Court of Appeals of Michigan

September 22, 2011, Decided

No. 298378

**Reporter**

2011 Mich. App. LEXIS 1641 \*; 2011 WL 4424346

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v JOVAN FORT, Defendant-Appellant.

**Notice:** THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

**Subsequent History:** Leave to appeal denied by People v. Fort, 2012 Mich. LEXIS 227 (Mich., Mar. 5, 2012)

**Prior History:** [\*1] Oakland Circuit Court. LC No. 08-223943-FH.

**Judges:** Before: MURPHY, C.J., and FITZGERALD and TALBOT, JJ.

**Opinion**

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PER CURIAM.

Defendant Jovan Fort was convicted by a jury of possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv), possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, and carrying a concealed weapon in a vehicle (CCW), MCL 750.227. He was sentenced to concurrent terms of 180 days' imprisonment on the drug and CCW convictions, along with a consecutive two-year term of imprisonment for the felony-firearm conviction. Defendant appeals as of right. We affirm.

This case arises out of a traffic stop in which defendant was pulled over by police for having tinted windows and an inoperable license plate light. The police noticed the strong smell of alcohol emanating from defendant's vehicle. On obtaining consent from defendant to search the car, police discovered a pistol in the center console, 15 baggies of crack cocaine in a cigarette box located in a rear passenger cup holder, numerous empty baggies in a cigarette box in the center console, shotgun and handgun ammunition located in the back of the vehicle, cash, and defendant's [\*2] CCW license, which had been suspended and revoked. Defendant claimed that he was unaware of the suspension and revocation having never received notice.

Defendant first argues that the trial court erred in finding that defendant gave the police broad, unlimited consent to search his car, where defendant only consented to a search for alcohol; therefore, the trial court

erred in denying defendant's motion to suppress the drug and gun evidence, violating his Fourth Amendment rights.

A trial court's findings at a suppression hearing are reviewed for clear error. *People v Williams*, 472 Mich 308, 313; 696 NW2d 636 (2005). "But the application of constitutional standards regarding searches and seizures to essentially uncontested facts is entitled to less deference; for this reason, we review de novo the trial court's ultimate ruling on the motion to suppress." *Id.*

We hold that the trial court did not err in denying defendant's motion to suppress the evidence. The Fourth Amendment of the United States Constitution and Const 1963, art 1, §11, secure the right of the people to be free from unreasonable searches and seizures. *People v Brown*, 279 Mich App 116, 130; 755 NW2d 664 (2008). Searches conducted [\*3] absent a warrant are per se unreasonable aside from a few well-delineated exceptions. *Katz v United States*, 389 U.S. 347, 357; 88 S Ct 507; 19 L Ed 2d 576 (1967); *People v Reed*, 393 Mich 342, 362; 224 NW2d 867 (1975). These established exceptions to the warrant requirement include searches that are performed pursuant to the consent of the defendant. *Florida v Jimeno*, 500 U.S. 248, 250-251; 111 S Ct 1801; 114 L Ed 2d 297 (1991); *In re Forfeiture of \$176,598*, 443 Mich 261, 266; 505 NW2d 201 (1993). Further, in *Jimeno*, 500 U.S. at 250-252, the United States Supreme Court explained and observed:

The touchstone of the Fourth Amendment is reasonableness. The Fourth Amendment does not proscribe all state-initiated searches and seizures; it merely proscribes those which are unreasonable. Thus, we have long approved consensual searches because it is no doubt reasonable for the police to conduct a search once they have been permitted to do so. The standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of "objective" reasonableness — what would the typical reasonable person have understood by the exchange between the officer and the suspect? The question before [\*4] us, then, is whether it is reasonable for an officer to consider a suspect's general consent to a search of his car to include consent to examine a paper bag lying on the floor of the car. We think that it is.

The scope of a search is generally defined by its expressed object. In this case, the terms of the search's authorization were simple. Respondent granted Officer Trujillo permission to search his car, and did not place any explicit limitation on the scope of the search. . . .

\* \* \*

Respondent argues, and the Florida trial court agreed with him, that if the police wish to search closed containers within a car they must separately request permission to search each container. But we see no basis for adding this sort of superstructure to the Fourth Amendment's basic test of objective reasonableness. A suspect may of course delimit as he chooses the scope of the search to which he consents. But if his consent would reasonably be understood to extend to a particular container, the Fourth Amendment provides no grounds for requiring a more explicit authorization. [Citations omitted.]

In the present case, the police officer lawfully stopped defendant's vehicle and questioned him about the [\*5] smell of alcohol in the car. Defendant stated that he had not been drinking and that the alcohol had been spilled in the backseat of the car earlier in the day by a friend. Defendant expressly denied having anything illegal in the car. The officer then proceeded to ask defendant if he could search his vehicle and defendant responded by saying, "okay." A DVD from a police cruiser camera confirmed the verbal exchange. While walking back to his patrol car to check the Law Enforcement Information Network (LEIN), the officer shined his flashlight in the back of defendant's car. We note that the mere use of a

flashlight does not constitute a search when the contents revealed would have been visible in ordinary daylight. *People v Edwards*, 73 Mich App 579, 583; 252 NW2d 522 (1977). Moreover, consent had already been given by that time and nothing of relevance was observed through use of the flashlight. After running the LEIN check on defendant, the officer and a second officer went to defendant's vehicle and conducted the search, which produced the evidence alluded to above.

Based on the short but clear conversation between the officer and defendant, an objective and reasonable person would [\*6] find that the officer had general, unlimited consent to search defendant's car. At the evidentiary hearing, defense counsel attempted to box the officer into a corner, seeking to elicit testimony that the officer was searching for something specific in relationship to his request for consent. The officer simply responded, "I asked for a consent to search the car." The officer acknowledged that the conversation was focused on alcohol prior to the request for consent; however, he did not testify, nor does the DVD show, that the actual request was framed in terms of consent solely to search for alcohol.

Defendant relies on and emphasizes his own testimony at the hearing where he stated, "[the officer] asked me to search my vehicle for open alcohol beverage[s]." This statement is not heard in the DVD of the stop and arrest, and defendant neglects to inform this Court that, on cross-examination, defendant admitted that the DVD did not reveal the words allegedly spoken by the officer. Defendant also conceded that he never told the officer that he could only search the car for alcohol. Although defendant claims that he believed the officer was only looking for alcohol, the footage from the [\*7] DVD clearly reflects that there were no limitations with respect to the parameters of the search and could have reasonably involved "anything illegal." We note that after the officer obtained the unlimited consent to search the vehicle, went to his patrol car to run the LEIN, returned to defendant's vehicle, and before the search actually commenced, the officer made the statement that he was going to check the car to make sure that there was no open alcohol in the vehicle. However, at this point, and regardless of the statement, the officer had already obtained the unlimited consent to search defendant's car. Furthermore, searching the center console and the cigarette boxes inside the car was within the general scope of the consent given by defendant. In *United States v Ross*, 456 U.S. 798, 825; 102 S Ct 2157; 72 L Ed 2d 572 (1982), the Court determined that general consent to a warrantless search extended to containers, even those not in plain sight.

Moreover, the smell of alcohol provided probable cause to search the car's center console regardless of any consent,<sup>1</sup> and even if the consent to a search was limited to a search for alcohol, as claimed by defendant, such consent would also [\*8] provide a reasonable basis to search the console. *People v Kazmierczak*, 461 Mich 411, 418-419; 605 NW2d 667 (2000); *People v Hellstrom*, 264 Mich App 187, 192; 690 NW2d 293 (2004). Upon finding the gun in the center console, there was probable cause to search for weapon-related evidence in the vehicle, and the police were of course free to continue searching for alcohol. It would be reasonable to search for items such as ammunition in the cigarette boxes, one of which contained cocaine. In fact, a cigarette box, which appears to have been a carton and not an individual pack, could also conceal alcohol. Additionally, the search did not require the exclusion of the evidence, as it was a search made in good faith incident to arrest.<sup>2</sup> While the search may have violated the principles in *Arizona v Gant*, 566 U.S. \_\_; 129 S Ct 1710; 173 L Ed 2d 285 (2009), relative to searches incident to arrest, *Gant* had not been decided when the search was conducted here. The Supreme Court has now ruled that although *Gant* is to be applied retroactively, the good-faith exception to the

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<sup>1</sup> Automobile searches are another exception to the warrant requirement. *In re Forfeiture*, 443 Mich at 266.

<sup>2</sup> A search incident to arrest is another exception to the warrant requirement. *In re Forfeiture*, 443 Mich at 266.

exclusionary rule is applicable where officers relied on the ruling in *New York v Belton*, 453 U.S. 454; 101 S Ct 2860; 69 L Ed 2d 768 (1981),<sup>3</sup> [\*9] at the time of the search at issue. *Davis v United States*, 564 U.S. \_\_; 131 S Ct 2419; \_\_ L Ed 2d \_\_ (2011). The Court held that "searches conducted in objectively reasonable reliance on binding appellate precedent are not subject to the exclusionary rule." *Id.* at 2423. Because the present incident took place before *Gant* was decided, the good-faith exception to the exclusionary rule applies. There is no evidence in the record even remotely suggesting that the police searched defendant's vehicle in any manner other than good faith.

Defendant next argues that he could not be convicted of CCW under MCL 750.227<sup>4</sup> unless he had been properly notified pursuant to MCL 28.428<sup>5</sup> that his CCW license had been suspended and revoked;

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<sup>3</sup> *Belton* was widely understood to have authorized an automobile search incident to arrest of a recent occupant, regardless of whether the arrestee was within reaching distance of the vehicle at the time of the search. See *Gant* generally.

<sup>4</sup> The CCW statute, MCL 750.227, provides in pertinent part:

(2) A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such a license.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 5 years, or by a fine of not more than \$2,500.00.

<sup>5</sup> MCL 28.428 provides in relevant part:

(2) Except as provided in subsections (3), (4), and (5), a license shall not be revoked under this section except upon written complaint and an opportunity for a hearing before the board. The board shall give the individual at least 10 days' notice of a hearing under this section. The notice shall be by personal service or by certified mail delivered to the individual's last known address.

(3) [\*11] If the concealed weapon licensing board is notified by a law enforcement agency or prosecuting official that an individual licensed to carry a concealed pistol is charged with a felony or misdemeanor as defined in this act, the concealed weapon licensing board shall immediately suspend the individual's license until there is a final disposition of the charge for that offense and send notice of that suspension to the individual's last known address as indicated in the records of the concealed weapon licensing board. The notice shall inform the individual that he or she is entitled to a prompt hearing on the suspension, and the concealed weapon licensing board shall conduct a prompt hearing if requested in writing by the individual. The requirements of subsection (2) do not apply to this subsection.

(4) The concealed weapon licensing board that issued a license to an individual to carry a concealed pistol shall revoke the license if the board determines that the individual is not eligible under this act to receive a license to carry a concealed pistol. The concealed weapon licensing board shall immediately send notice of the fact of and the reason for the revocation order under this subsection [\*12] by first-class mail to the individual's last known address as indicated on the records of the concealed weapon licensing board. The requirements of subsection (2) do not apply to this section.

\* \* \*

(7) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless he or she has received notice of the order or amended order.

(8) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual shall be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(9) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement [\*13] information network that the individual has received notice of the order or amended order under this section.



therefore, the [\*10] trial court erred in denying his pretrial motion to dismiss the charges and erred in crafting the jury instructions.

A trial court's decision to deny a motion to dismiss criminal charges is reviewed for an abuse of discretion; however, we review de novo underlying questions of law associated with the motion. *People v Owen*, 251 Mich App 76, 78; 649 NW2d 777 (2002); *People v Kevorkian*, 248 Mich App 373, 383; 639 NW2d 291 (2001). Jury instructions or claimed instructional errors involving legal questions are reviewed de novo, although a court's determination that an instruction applies to the facts of the case is reviewed for an abuse of discretion. *People v Dupree*, 486 Mich 693, 702; 788 NW2d 399 (2010). With respect to preserved constitutional issues, which include claims of inadequate jury instructions relative to the elements of a crime, the Court must rule on whether or not any error was harmless beyond a reasonable doubt. *United States v Gaudin*, 515 U.S. 506, 510; 115 S Ct 2310; 132 L Ed 2 444 (1995); *People v Carines*, 460 Mich 750, 761, 774; 597 NW2d 130 (1999); *People v Wright*, 408 Mich 1, 26-30; 289 NW2d 1 (1980).

The trial court did not err in denying defendant's pretrial motion to dismiss, [\*14] given that, even if MCL 28.428 applied to a CCW charge brought under MCL 750.227, it is evident to us from the record that the licensing board was invoking subsection (3) of MCL 28.428 in support of the suspension and subsection (4) for the revocation.<sup>6</sup> Therefore, personal service of the suspension notice or service of the notice by certified mail was not necessary. Moreover, assuming that subsection (2) was applicable and consistent with subsections (7) — (9) of MCL 28.428, even if personal service or certified mail was not utilized under subsection (2), verbal notice given by a law enforcement agency or police officer can suffice as "notice" where a defendant is later stopped and is still carrying a concealed weapon despite the previous notice, thereby allowing an arrest and criminal liability. There was evidence of verbal notice prior to the date on which defendant was arrested for the crimes at issue here. Accordingly, dismissal of the CCW charge would not have been proper.

With respect to the CCW jury instruction, assuming error relative to the issue of notice based on MCL 28.428 or constitutional due process principles, we find that the claimed error was harmless beyond a reasonable doubt. Defendant was permitted by the trial court to argue lack of notice as a theory of defense in regard to the CCW charge, and the court itself instructed the jury on said theory.<sup>7</sup> Therefore, even if the specific CCW instruction was problematic or confusing on the issue of notice, the jurors well understood that inadequate notice would support an acquittal; why else would defendant argue lack of notice and the court set forth the theory. The jurors likely considered and rejected the argument that defendant was not on notice of the suspension and revocation. Furthermore, there was strong evidence that defendant received notice, such that the giving of a CCW [\*16] instruction that more adequately addressed the notice issue would still have resulted in a guilty verdict. An officer who pulled defendant over about six months earlier than the stop involved in the case at bar testified that he gave defendant notice of the suspension. The officer further testified that the LEIN check relative to that earlier stop indicated that defendant had previously been given verbal notice of the suspension. Considering that defendant was

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<sup>6</sup>The suspension notice was dated the same day that defendant was arrested for malicious destruction of property. Also, there was no evidence of a "written complaint," an immediate suspension was issued, which [\*15] is not provided for in subsection (2), and a regular mailing was utilized. We do agree, however, that a suspension pursuant to subsection (3) was improper because the prosecution declined to charge defendant with malicious destruction of property. Defendant never showed up at the scheduled hearing on the suspension.

<sup>7</sup>We note that the jury was present when the trial court overruled the prosecutor's objection that examination of defendant on notice matters was irrelevant.

arrested and charged in that case with carrying a loaded firearm in a vehicle other than a pistol, MCL 750.227c, and later pled guilty, it would defy logic to believe that the suspension and revocation never came to defendant's attention during that whole process. Additionally, the suspension letter and the revocation letter from the licensing board to defendant were admitted into evidence. Any presumed instructional error was harmless beyond a reasonable doubt.

Finally, defendant argues that there were multiple instances of ineffective assistance of counsel. A claim of ineffective [\*17] assistance of counsel presents a mixed question of fact and constitutional law, which this Court reviews, respectively, for clear error and de novo. *People v LeBlanc*, 465 Mich 575, 579; 640 NW2d 246 (2002). Where claims of ineffective assistance of counsel were not preserved below, as is the case here, our review is limited to errors and mistakes apparent on the record. *People v Matuszak*, 263 Mich App 42, 48; 687 NW2d 342 (2004).

Effective assistance of counsel is presumed and the defendant has a heavy burden to prove otherwise. *People v Leonard*, 224 Mich App 569, 592; 569 NW2d 663 (1997). The Sixth Amendment entitles criminal defendants to effective assistance of counsel, that is, representation that does not fall below an objective standard of reasonableness in light of prevailing professional norms. *Bobby v Van Hook*, 558 U.S. \_\_; 130 S Ct 13; 175 L Ed 2d 255 (2009). As the United States Supreme Court established in *Strickland v Washington*, 466 U.S. 668, 686-687; 104 S Ct 2052; 80 L Ed 674 (1984):

[T]he right to counsel is the right to the effective assistance of counsel. Government violates the right to effective assistance when it interferes in certain ways with the ability of counsel [\*18] to make independent decisions about how to conduct the defense. Counsel, however, can also deprive a defendant of the right to effective assistance, simply by failing to render adequate legal assistance.

\* \* \*

[T]he benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.

\* \* \*

A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction has two components. First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. [\*19] Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be that the conviction resulted from a breakdown in the adversary process that renders the result unreliable. [Citations omitted.]

The defendant must show that but for defense counsel's errors, there was a reasonable probability that the result of the proceedings would have been different and the result that did occur was fundamentally unfair or unreliable. *Id.* at 694; *People v Davenport*, 280 Mich App 464, 468; 760 NW2d 743 (2008). The defendant must overcome the presumption that the challenged action or inaction was sound trial strategy, and this Court will not substitute its judgment for that of counsel in hindsight. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999); *Leonard*, 224 Mich App at 592.

In the present case, defendant argues that he was denied the right to the effective assistance of counsel when trial counsel did not present evidence at the pretrial hearing on the motion to dismiss [\*20] and at

trial showing that he was never charged with malicious destruction of property, despite being arrested for the offense. Subsection (3) of MCL 28.428 only requires notice by ordinary mail sent to a person's last known address, but it also clearly indicates the necessity of a charge being brought against the license holder for committing a felony or misdemeanor; an arrest alone does not suffice. Accordingly, defendant's argument here is that counsel was ineffective at the hearing and trial for not presenting evidence and not arguing that the suspension and revocation were legally invalid. Contrary to defendant's argument, the pretrial motion to dismiss touched on the lack of charges emanating from the arrest for malicious destruction of property, and defense counsel attached as exhibits the documents showing that defendant was never charged with a crime. Defendant is correct, however, that the evidence and argument was not presented at trial. Nevertheless, defendant fails to explain or provide an analysis with respect to why he is entitled to collaterally attack the validity of the suspension and revocation at his criminal trial, especially when there was substantial evidence [\*21] that defendant received notice and no indication that defendant ever approached the licensing board about its actions. And again, any issues concerning notice do not warrant reversal. The requisite prejudice has not been established.

Defendant also argues ineffective assistance of counsel relative to counsel's failure to be prepared with caselaw in support of the argument that the officer's brief use of a flashlight to quickly glance into the car as he walked by it constituted a constitutionally deficient search. This argument fails because there was no resulting prejudice to defendant, where the officer's action did not implicate Fourth Amendment protections, *Edwards*, 73 Mich App at 583, where there was probable cause to glance into the car, where nothing of relevance was observed by the officer, and where defendant had already given his consent for the officer to search the vehicle.

Finally, defendant argues that counsel was ineffective at the sentencing hearing, where OV 15 was initially scored at zero, the prosecutor stated that it should be scored at 5 points, defense counsel objected to any change but could not articulate a sound basis for the objection and indicated that she was [\*22] not prepared to address the matter, and where the court changed the score to 5 points. The first problem with this argument is that defendant does not claim that a score of 5 points was legally incorrect. Further, defendant does not argue that the scoring difference affected the sentencing range. Finally, a score of 5 points was proper, given that the "offense involved the . . . possession with intent to deliver . . . any . . . controlled substance[.]" MCL 777.45(1)(g). Accordingly, an ineffective assistance claim was not established.

Affirmed.

/s/ William B. Murphy

/s/ E. Thomas Fitzgerald

/s/ Michael J. Talbot

## **APPENDIX E**

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**STATE OF MICHIGAN  
IN THE COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CLEOPHAS ANDREW BROWN,

Defendant-Appellee.

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Court of Appeals No. 348079

Circuit Court No. 18-266476 FH

**DEFENDANT-APPELLEE'S BRIEF ON APPEAL**

**ORAL ARGUMENT REQUESTED**

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**STATEMENT OF JURISDICTION**

The defense agrees that this Court has jurisdiction to consider this appeal by leave granted.

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**STATEMENT OF QUESTIONS INVOLVED**

I.A. Defendant was charged with carrying a concealed weapon. In a motion to dismiss, the defense established that Defendant had not received proper notice that his license to carry a concealed weapon had been revoked. On appeal, the prosecution argues for the first time that the absence of notice does not preclude Defendant from being charged with carrying a concealed weapon. Reviewing this issue for plain error, is it clear or obvious that the prosecution's interpretation is correct?

The trial court did not answer.

The prosecution answers, "Yes."

The defense answers, "No."

I.B. At an evidentiary hearing, the prosecution failed to present sufficient evidence establishing that Defendant had notice that his license to carry a concealed weapon had been revoked. The trial court accordingly dismissed the charge of carrying a concealed weapon. Was the trial court's decision outside the range of reasoned and principled outcomes?

The trial court answered, "No."

The prosecution answers, "Yes."

The defense answers, "No."

## INTRODUCTION

Defendant Cleophas Brown was charged in this case with carrying a concealed weapon (CCW). Brown previously had a valid license to carry a concealed pistol (CPL), and he asserted that he had never received notice that his license had been revoked. After an evidentiary hearing, the trial court agreed and accordingly dismissed the charge.

In its application to this Court, the prosecution argued for the first time that even assuming that Brown did not have notice of the revocation, he was still on the hook for CCW. In other words, even if Brown never knew that his license had been revoked, he could still be liable for a five-year felony. Aside from being an extreme and untenable position, the prosecution fails to establish—on plain-error review—that its interpretation of the pertinent statutes is clearly or obviously right.

The prosecution also argues that Brown was on notice that his CPL had been revoked. The prosecution relies on an ambiguous entry in the law enforcement information network (LEIN) indicating that Defendant had received verbal notice. But the entry fails to state when or where or by whom this notice was given. The trial court found that this was insufficient evidence of notice. The prosecution fails to establish that this decision was outside the range of reasoned and principled outcomes.

The Court should affirm.

## STATEMENT OF FACTS

### **Brown's concealed carry license**

Brown had a valid CPL beginning in August 2013. Later that month, he was arrested for operating while intoxicated (OWI). Notice was sent to Brown that his CPL was suspended as a result of the arrest. The OWI charge was later dismissed, though, and Brown informed the local licensing board of this development. The OWI charge was subsequently reinstated, and Brown was convicted at a jury trial. But there is no evidence that notice of a suspension or revocation was sent to Brown either when the charge was reinstated or when he was ultimately convicted.

The only mention of notice is an entry in LEIN, which states, "SERVED VERBAL NOTICE OF REVOKED CPL BY PEACE OFFICER." The entry does not state when notice was given,<sup>1</sup> where it was given, or by whom it was given. Also, there is apparently no documentation to corroborate the LEIN entry.

### **Present case**

On November 24, 2017, police responded to a property damage accident involving Brown's car. Suspecting that Brown was intoxicated, officers asked him to get out of his car to perform field sobriety tests. Once Brown was out of

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<sup>1</sup> It has been suggested that notice may have first been given when Brown was arrested in the present case.

the car, an officer patted him down and discovered a handgun. Brown informed police that he had a valid CPL. Another officer checked into the status of the CPL and discovered that it had been revoked. The officer informed Brown of the revocation.

Brown was charged in this case with carrying a concealed weapon (CCW), MCL 750.227; operating while intoxicated with a blood alcohol content of 0.17 or more, MCL 257.625; and possession of a firearm while having a blood alcohol content of 0.08 or more, MCL 750.237.

### **Motion to dismiss**

The defense moved to dismiss the CCW charge, arguing that Brown had not received notice that his CPL had been suspended or revoked. In particular, the defense argued that Brown had never received notice that his license had been suspended or revoked after his OWI charge was reinstated. As stated in the prosecution's brief, the only indication that Brown had received notice of the revocation was the vague LEIN entry stating that verbal notice had been served.

The trial court found that this was insufficient evidence to support the CCW charge:

The Court finds that under the totality of testimony and evidence presented during the hearing, Defendant is not criminally liable for CCW. Pursuant to MCL 28.428, an individual is not criminally



liable for violating an order suspending or revoking his concealed pistol license “unless he has received notice of the order.” MCL 28.428 defines two mandatory notice provisions: notice of CPL suspension pending the resolution of charges for a disqualifying crime; and notice of revocation due to a change in eligibility. The People have failed to produce evidence that conclusively demonstrates that Defendant received notice after he was convicted of OWI on 5/20/15 that his CPL was suspended or revoked. There is no evidence of written notice and the evidence submitted to show that Defendant received verbal notice is insufficient. The single line in the LEIN, which does not include the date and time of the verbal notice, the name of the officer that gave verbal notice or the circumstances under which verbal notice was given, does not constitute substantial evidence that Defendant received notice. [Tr Ct Op & Ord, pp 1-2.]

## ARGUMENT

**I.A. Contrary to the prosecution's argument, it is not clear or obvious that a CPL holder can be prosecuted for CCW in the absence of notice that his license has been revoked.**

### Issue Preservation

To preserve an issue for appellate review, it must first be raised before and decided by the trial court. *People v Dupree*, 486 Mich 693, 703; 788 NW2d 399 (2010). And an argument based on one ground is insufficient to preserve a different argument based on another ground. *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004). Because the prosecution failed to raise this issue below, it is unpreserved.

Nevertheless, the prosecution asks this Court to overlook the preservation requirement. (Pros Br, pp 6-7). The Court should decline the invitation. Appellate review of unpreserved claims is disfavored. *People v Frazier*, 478 Mich 231, 241; 733 NW2d 713 (2007). "The preservation requirement induces litigants to do what they can in the trial court to prevent error and eliminate its prejudice, or to create a record of the error and its prejudice." *People v Cameron*, 291 Mich App 599, 617; 806 NW2d 371 (2011) (cleaned up).

### Standard of Review

Unpreserved issues are reviewed for plain error. Under the plain error standard of review, the appellant must show "(1) that the error occurred, (2)

that the error was ‘plain,’ (3) that the error affected substantial rights, and (4) that the error either resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of judicial proceedings.” *People v Vaughn*, 491 Mich 642, 654; 821 NW2d 288 (2012).

### Analysis

This issue concerns the interplay of two distinct but related statutes. The first is MCL 750.227, which generally prohibits carrying a concealed pistol in a car unless the person has a license:

A person shall not carry a pistol concealed on or about his or her person, or, whether concealed or otherwise, in a vehicle operated or occupied by the person, except in his or her dwelling house, place of business, or on other land possessed by the person, without a license to carry the pistol as provided by law and if licensed, shall not carry the pistol in a place or manner inconsistent with any restrictions upon such license. [MCL 750.227(b).]

Violation of this provision is a felony punishable by up to five years in prison.

MCL 750.227(3).

The second statute at issue is MCL 28.428, which prescribes the notice required when a CPL is suspended or revoked:

(2) If a county clerk is notified by a law enforcement agency, prosecuting official, or court that an individual licensed to carry a concealed pistol is charged with a felony or charged with a misdemeanor listed in section 5b(7)(h) or (i), the county clerk shall immediately suspend the individual's license until

there is a final disposition of the charge for that offense. The county clerk shall send notice by first-class mail in a sealed envelope of that suspension to the individual's last known address as indicated in the records of the county clerk. The notice must include the statutory reason for the suspension, the source of the record supporting that suspension, the length of the suspension, and whom to contact for reinstating the license on expiration of the suspension, correcting errors in the record, or appealing the suspension. If a county clerk suspended a license under this subsection and the individual is acquitted of the charge or the charge is dismissed, the individual shall notify the county clerk who shall automatically reinstate the license if the license is not expired and the individual is otherwise qualified to receive a license to carry a concealed pistol, as verified by the department of state police. A county clerk shall not charge a fee for the reinstatement of a license under this subsection.

(3) The department of state police shall notify the county clerk in the county in which a license was issued to an individual to carry a concealed pistol if the department of state police determines that there has been a change in the individual's eligibility under this act to receive a license to carry a concealed pistol. The county clerk shall suspend, revoke, or reinstate the license as required under this act and immediately send notice of the suspension, revocation, or reinstatement under this subsection by first-class mail in a sealed envelope to the individual's last known address as indicated on the records of the county clerk. The notice must include the statutory reason for the suspension, revocation, or reinstatement, the source of the record supporting the suspension, revocation, or reinstatement, the length of the suspension or revocation, and whom to contact for correcting errors in the record, appealing the suspension or revocation, and reapplying for that individual's license. The department of state police shall immediately enter that suspension, revocation, or



reinstatement into the law enforcement information network.

(4) If a suspension is imposed under this section, the suspension must be for a period stated in years, months, or days, or until the final disposition of the charge, and state the date the suspension will end, if applicable. The licensee shall promptly surrender his or her license to the county clerk after being notified that his or her license has been revoked or suspended. An individual who fails to surrender a license as required under this subsection after he or she was notified that his or her license was suspended or revoked is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(5) Except as otherwise provided in subsections (2) and (6), if a license is suspended under this section and that license was surrendered by the licensee, upon expiration of the suspension period, the applicant may apply for a renewal license in the same manner as provided under section 5l. . . .

\* \* \*

(7) If the court orders a county clerk to suspend, revoke, or reinstate a license under this section or amends a suspension, revocation, or reinstatement order, the county clerk shall immediately notify the department of state police in a manner prescribed by the department of state police. The department of state police shall enter the order or amended order into the law enforcement information network.

(8) A suspension or revocation order or amended order issued under this section is immediately effective. However, an individual is not criminally liable for violating the order or amended order unless he or she has received notice of the order or amended order.

(9) If an individual is carrying a pistol in violation of a suspension or revocation order or amended order issued under this section but has not previously received notice of the order or amended order, the individual must be informed of the order or amended order and be given an opportunity to properly store the pistol or otherwise comply with the order or amended order before an arrest is made for carrying the pistol in violation of this act.

(10) If a law enforcement agency or officer notifies an individual of a suspension or revocation order or amended order issued under this section who has not previously received notice of the order or amended order, the law enforcement agency or officer shall enter a statement into the law enforcement information network that the individual has received notice of the order or amended order under this section. [MCL 28.428.]

As pertinent here, the statute provides that until a licensee has received proper notice of a suspension or revocation order, he cannot be criminally liable for violating the order. MCL 28.428(8).

The prosecution's argument that MCL 28.428's immunity provision applies only to criminal liability under MCL 28.428 is incorrect. Seizing on MCL 28.428(9) and its "violation of *this act*" language, the prosecution argues that a lack of notice only insulates a CPL holder for liability for the misdemeanor under MCL 28.428(4). But the prosecution neglects MCL 28.428(8), which states in general that "an individual is not criminally liable for violating [a suspension or revocation] order unless he or she has received notice of the order or amended order." By its terms, MCL 28.428(8) does not grant safe harbor only from liability under MCL 28.428(4). Rather, subsection 8 states writ

large that a CPL holder is immune from any prosecution arising out of a suspension or revocation until proper notice has been served. This would, of course, include liability under MCL 750.227.

Moreover, the prosecution's interpretive lodestar—that MCL 750.227 and MCL 28.428 must be read in hermetic isolation from one another—is simply not correct. Under the *in pari materia* doctrine, separate statutes may be so interrelated that they must be construed together. As our Supreme Court put it, “[s]tatutes that address the same subject or share a common purpose are *in pari materia* and must be read together as a whole.” *People v Harper*, 479 Mich 599, 621; 739 NW2d 523 (2007).

Here, MCL 750.227 and MCL 28.428 should be regarded as *in pari materia*. MCL 750.227(2) states that a person cannot carry a concealed pistol in his car “without a license to carry the pistol *as provided by law*.” (Emphasis added). The statute also provides that “if licensed, [a person] shall not carry the pistol in a place or manner *inconsistent with any restrictions upon such license*.” *Id.* (emphasis added). It seems clear that these references are to the statutes concerning CPLs under MCL 28.421 *et seq.*, including MCL 28.428. Thus, the *in pari materia* doctrine applies.

And reading MCL 750.227 and MCL 28.428 together, the defense submits that a person who has not have received sufficient notice under MCL 28.428 cannot be liable under MCL 750.227. Again, MCL 750.227(2)

states that a person who is licensed cannot carry the pistol in a manner “inconsistent with any restrictions upon such license.” MCL 750.227(2). And MCL 28.428 does not restrict a person’s ability to carry a pistol—at least for purposes of criminal liability—until he has received proper notice of the suspension or revocation. The references to “as provided by law” and “restrictions upon such license” only make sense when read in conjunction with MCL 28.428.<sup>2</sup> In short, MCL 750.227 provides that a CPL holder must act in accordance with MCL 28.428, and under MCL 28.428, a CPL holder cannot be liable for any criminal violation until he receives notice that his CPL has been suspended or revoked.

Or at least the prosecution has not established that such an interpretation is clearly wrong. For an error to be “plain” for purposes of plain error, it must be “clear or obvious, which means “not subject to reasonable dispute.” *People v Randolph*, 502 Mich 1, 10; 917 NW2d 249 (2018) (quotation marks and citation omitted). Here, the prosecutor has failed to show that its interpretation—that even in the absence of notice, a CPL holder can be liable under MCL 750.227—is clearly right. As explored above, at the very least, there’s a

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<sup>2</sup> If a contrary interpretation is endorsed, the possibilities become untenable. A CPL holder who has not yet received notice that his license has been suspended or revoked could be liable for a felony under MCL 750.227 but not a misdemeanor under MCL 28.428. It strains credulity to say that such an innocently ignorant CPL holder can’t be liable for a 93-day misdemeanor but can be liable for a 5-year felony.



good argument to be made that a CPL holder cannot be liable for any crime until notice has been properly served. Moreover, the only case on point cited by the prosecution assumed without deciding that notice is required. *People v Fort*, unpublished per curiam opinion of the Court of Appeals, issued September 22, 2011 (Docket No. 298378). If it was so obvious that notice is not required, this Court would have said so. Thus, the prosecution is not entitled to relief. Although undoubtedly an interesting issue, this case is not the right vehicle for addressing it given the prosecution's failure to preserve it.

**I.B. The trial court did not abuse its discretion in finding that the evidence was insufficient to support the CCW charge.**

### **Issue Preservation**

This issue was raised before and decided by the trial court. Therefore, it is preserved for this Court's review.

### **Standard of Review**

This Court reviews for an abuse of discretion a trial court's decision on a motion to dismiss. *People v Jones*, 252 Mich App 1, 4; 650 NW2d 717 (2002). A trial court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes. *People v Young*, 276 Mich App 446, 448; 740 NW2d 347 (2007).

### Analysis

As stated above, after his first OWI charge was dismissed and then reinstated, Brown never received notice that his CPL had been suspended or revoked. The only indication anywhere that Brown had received notice was the LEIN entry.

That entry, though, is problematic. It does not state when notice was given, where it was given, or by whom it was given. Nor has the prosecution presented any documentation establishing how this entry made its way into LEIN. The prosecution has also failed to negate the possibility that this entry reflects the notice given when Brown was arrested in the present case, which obviously would not have been sufficient for the prosecution to avoid the immunity provisions of MCL 28.428.

The trial court did not abuse its discretion in finding that the evidence of notice was insufficient to sustain the charge. The prosecution argues that the trial court used an incorrect evidentiary standard. Not so. Instead, the court correctly determined that if the CCW charge went to trial, the evidence presented—in essence, only the LEIN entry—would not have been sufficient to ultimately submit the charge to the jury.<sup>3</sup> Far from being outside the range of reasonable and principled outcomes, this was the correct decision.

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<sup>3</sup> In other words, the charge could not survive a motion for directed verdict.

**RELIEF REQUESTED**

This Court should affirm the trial court's decision.

Respectfully submitted,

/s/ Zachary R. Glaza  
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